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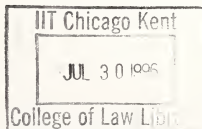
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Illinois Register

Rules of Governmental Agencies

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Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
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INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or preemptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1996

Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:
Dec. 19, 1995	Dec. 26, 1995	1	Jan. 5, 1996	June 25, 1996	July 2, 1996	28	July 12, 1996
Dec. 26, 1995	Jan. 2, 1996	2	Jan. 12, 1996	July 2, 1996	July 9, 1996	29	July 19, 1996
Jan. 2, 1996	Jan. 9, 1996	3	Jan. 19, 1996	July 9, 1996	July 16, 1996	30	July 26, 1996
Jan. 9, 1996	Jan. 16, 1996	4	Jan. 26, 1996	July 16, 1996	July 23, 1996	31	Aug. 2, 1996
Jan. 16, 1996	Jan. 23, 1996	5	Feb. 2, 1996	July 23, 1996	July 30, 1996	32	Aug. 9, 1996
Jan. 23, 1996	Jan. 30, 1996	6	Feb. 9, 1996	July 30, 1996	Aug. 6, 1996	33	Aug. 16, 1996
Jan. 30, 1996	Feb. 6, 1996	7	Feb. 16, 1996	Aug. 6, 1996	Aug. 13, 1996	34	Aug. 23, 1996
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Feb. 13, 1996	Feb. 20, 1996	9	Mar. 1, 1996	Aug. 20, 1996	Aug. 27, 1996	36	Sept. 6, 1996
Feb. 20, 1996	Feb. 27, 1996	10	Mar. 8, 1996	Aug. 27, 1996	Sept. 3, 1996	37	Sept. 13, 1996
Feb. 27, 1996	Mar. 5, 1996	11	Mar. 15, 1996	Sept. 3, 1996	Sept. 10, 1996	38	Sept. 20, 1996
Mar. 5, 1996	Mar. 12, 1996	12	Mar. 22, 1996	Sept. 10, 1996	Sept. 17, 1996	39	Sept. 27, 1996
Mar. 12, 1996	Mar. 19, 1996	13	Mar. 29, 1996	Sept. 17, 1996	Sept. 24, 1996	40	Oct. 4, 1996
Mar. 19, 1996	Mar. 26, 1996	14	Apr. 5, 1996	Sept. 24, 1996	Oct. 1, 1996	41	Oct. 11, 1996
Mar. 26, 1996	Apr. 2, 1996	15	Apr. 12, 1996	Oct. 1, 1996	Oct. 8, 1996	42	Oct. 18, 1996
Apr. 2, 1996	Apr. 9, 1996	16	Apr. 19, 1996	Oct. 8, 1996	Oct. 15, 1996	43	Oct. 25, 1996
Apr. 9, 1996	Apr. 16, 1996	17	Apr. 26, 1996	Oct. 15, 1996	Oct. 22, 1996	44	Nov. 1, 1996
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Apr. 23, 1996	Apr. 30, 1996	19	May 10, 1996	Oct. 29, 1996	Nov. 4, 1996 (Mon.)	46	Nov. 15, 1996
Apr. 30, 1996	May 7, 1996	20	May 17, 1996	Nov. 4, 1996	Nov. 12, 1996	47	Nov. 22, 1996
May 7, 1996	May 14, 1996	21	May 24, 1996	Nov. 12, 1996	Nov. 19, 1996	48	Dec. 2, 1996 (Mon.)
May 14, 1996	May 21, 1996	22	May 31, 1996	Nov. 19, 1996	Nov. 26, 1996	49	Dec. 6, 1996
May 21, 1996	May 28, 1996	23	June 7, 1996	Nov. 26, 1996	Dec. 3, 1996	50	Dec. 13, 1996
May 28, 1996	June 4, 1996	24	June 14, 1996	Dec. 3, 1996	Dec. 10, 1996	51	Dec. 20, 1996
June 4, 1996	June 11, 1996	25	June 21, 1996	Dec. 10, 1996	Dec. 17, 1996	52	Dec. 27, 1996
June 11, 1996	June 18, 1996	26	June 28, 1996	Dec. 17, 1996	Dec. 23, 1996 (Mon.)	1	Jan. 3, 1997
June 18, 1996	June 25, 1996	27	July 5, 1996	Dec. 23, 1996	Dec. 31, 1996	2	Jan. 10, 1997

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Access to Information

2) Code Citation: 2 Ill. Adm. Code 1631

3) Section Numbers:

Proposed Section:
1631.10
Amendment
1631.10
Amendment
1631.10
Repeal
Appendix A
Appendix B
Amendment

4) Statutory Authority: Implementing and authorized by the Freedom of Information Act, 5 U.S.C. 552, and Section 3-15 of the Illinois Administrative Procedure Act, 5 ILCS 1-10-1.5.

5) A Complete Recitation of the Subjects and Issues Involved: The form, request for records, Freedom of Information Act, has been revised and any reference to the Illinois Administrative Procedure Act is deleted. The Illinois Freedom of Information Act is revised to reflect the changes to the Illinois Freedom of Information Act.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain information by reference? No

9) Are there any other proposed amendments relating to this Part? No

10) Statement of Rationale Policy Justified: This rulemaking does not create or expand a state agency as defined in Section 10-1 of the State Mandates Act, 5 ILCS 10-1-1.

11) Time, Place, and Manner in which interested persons may comment on this rulemaking: Any person may comment on this rulemaking by filing a written comment with the Illinois Secretary of State, 100 North LaSalle Street, 15th Floor, Chicago, Illinois 60601, or a copy of the comment may be sent to the Illinois Secretary of State, 100 North LaSalle Street, 15th Floor, Chicago, Illinois 60601.

State Board, Deputy Chief Counsel
Capital Development Board
322 North LaSalle Street
Springfield, Illinois 62706
(217) 781-1022

12) Initial Regulatory Flexibility Analysis:

A) Does it affect businesses, small municipalities and not for profit corporations affected? None.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

B) Reporting, bookkeeping or other procedures required for compliance: None.

C) Types of professional skills necessary for compliance: None.

13) Regulatory Agenda on which this rulemaking was submitted: This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated when the two most recent regulatory agendas were published.

The full text of the proposed rule begins in the next page:

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
 SUBTITLE B: MISCELLANEOUS STATE AGENCIES
 CHAPTER VIII: CAPITAL DEVELOPMENT BOARD

PART 1651

ACCESS TO INFORMATION

SUBPART A: INTRODUCTION

Section
 1651.110
 1651.120
 1651.130

Summary and Purpose
 Definitions

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

Section
 1651.110
 1651.120

Person to Whom Requests Are Submitted
 Form and Content of Request

SUBPART C: PROCEDURES FOR BOARD RESPONSE TO REQUESTS FOR PUBLIC RECORDS

Section
 1651.110
 1651.120
 1651.130

Timeline for Board Response
 Categories of Board Responses

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

Section
 1651.110
 1651.120

Appeal of a Denial
 Executive Director's Response to Appeal

SUBPART E: PROCEDURES FOR PROVIDING PUBLIC RECORDS TO REQUESTORS

Section
 1651.110
 1651.120
 1651.130

Inspection of Records at Board Offices
 Copies of Public Records
 General Materials Available from the Freedom of Information Officer

APPENDIX A

Request for Public Records (Revised)

APPENDIX B

Fee Schedule for Duplication of Public Records

AUTHORITY: Implementation and authorized by the Freedom of Information Act (5 ILCS 100/5-140) and Sections 5-15 of the Illinois Administrative Procedure Act (5 ILCS 100/5-15).

SOURCE: Adopted at 3 Ill. Reg. 3099, effective July 1, 1984; amended at 8 Ill. Reg. 13659, effective July 20, 1994; amended at 20 Ill. Reg. _____, effective _____.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

effective _____.

SUBPART A: INTRODUCTION

Section 1651.110 Summary and Purpose

- This part is established to implement the provisions of the Freedom of Information Act (5 ILCS 100/5-140) and the Capital Development Board's policy of providing public access to the public records of the Capital Development Board while protecting legitimate privacy interests and maintaining administrative efficiency.
- These rules establish the procedure by which the public may request and obtain public records of the Capital Development Board. The rules also set forth the procedures to be followed by the Capital Development Board in responding to requests for information.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

Section 1651.120 Definitions

- Terms shall have the same meaning as in the Freedom of Information Act and the Capital Development Board Act (20 ILCS 110/5). Wherever the word "requester" appears in these rules, it shall mean any person who has submitted a request for information to the Capital Development Board.
- The following definitions are applicable for purposes of these rules:
 - "Act" means the Capital Development Board Act (20 ILCS 110/5) after Revision 1999-07-27-1999-07-27-1999-07-27-1999-07-27.
 - "Board" means the Capital Development Board, created by the Act.
 - "Executive Director" means the chief executive officer of the Board, employed pursuant to Section 2 of the Act.
 - "FOIA" means the Freedom of Information Act (5 ILCS 100/5-140) after Revision 1999-07-27-1999-07-27-1999-07-27-1999-07-27.

"Requester" means a person who submits a request for public records in accordance with this Part _____.

"Freedom of Information Officer" means an individual responsible for receiving and responding to requests for public records.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

Section 1651.220 Form and Content of Request

- a) All requests for public records submitted to the board under the FOIA shall be in writing. Such requests shall be submitted on a form request form provided by the Board. The request shall include the following information in any request for public records:
 - 1) The requester's full name, mailing address and telephone number, including area code, at which the request can be reached during normal business hours.
 - 2) A description of the public records sought, being as specific as possible.
 - 3) Whether the request is for inspection of public records, copies of public records, or both.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 1651. APPENDIX A Request for Public Records (Repealed)

99.
 Freedom of Information Officer
 State of Illinois
 100 North Dearborn Street
 4th South State Street
 Springfield, IL 62766
 FROM: _____
 NAME _____
 ADDRESS _____
 AG: _____
 REQUESTER _____

DESCRIPTION OF REQUESTED RECORD(S)

Please indicate if you wish to inspect the records identified above or wish to copy them

_____ Inspect _____ Copy _____ Both

FOR OFFICE USE ONLY

Date Received _____ Date Referred _____

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

CAPITAL DEVELOPMENT BOARD
NOTICE OF PROPOSED AMENDMENTS

Section 1651 APPENDIX B Fee Schedule for Duplication of Public Records

Type of Duplication	Per Copy Charge
Paper copy from paper original	\$.25
Diazo copy of microfiche-per sheet	1.00
Paper copy from microfiche original-per page	.50
Computer printout-paper-per page	.50
Computer Diskette 3 1/2 inch	\$25.00
Drawings (cost incurred by the Capital Development Board)	

Some records in the possession of the Board are in book or pamphlet form. A charge may be assessed for such materials based on the cost incurred by the Board for such materials.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

CAPITAL DEVELOPMENT BOARD
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Asbestos Abatement Authority Act Procedures
- 2) Code Citation: 71 Ill. Adm. Code 500
- 3) Section Numbers: Proposed Action:
500.10 Amendment
500.30 Amendment
- 4) Statutory Authority: Implementing the Asbestos Abatement Authority Act (70 ILCS 1100) and authorized by Section 3 of that Act.
- 5) A Complete Description of the Subjects and Issues Involved: This rule is being amended to incorporate regulatory references to recognize two new applicable federal laws and the new applicable Illinois statute.
- 6) Will this proposed rule replace an emergency rule current in effect? No
- 7) Does this rulemaking contain an automatic appeal rule? No
- 8) Does this proposed amendment contain incorporation by reference? Yes
- 9) Are there any other proposed amendments pending in this Part? No
- 10) Statement of Statewide Policy Objectives: These rules are required by Section 3 of the Asbestos Abatement Authority Act (70 ILCS 1100/3) and so not affect local governments.
- 11) Time, Place, and Manner in which interested persons may comment in the proposed rulemaking: From the date that this notice first appears in the Illinois Register, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

Claire Blisch, Deputy Chief Counsel
Capital Development Board
3rd Floor, Rm. G, Station Bldg.
Springfield, Illinois 62706
Telephone: 217/82-1322
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None.
 - B) Reporting, bookkeeping or other procedures required for compliance: None.
 - C) Types of professional skills necessary for compliance: None.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- editions), 1. 101-5171; Abatement, School Hazard Abatement
1) Rehabilitation Act of 1980 (ASBRAL);
2) Occupational Safety and Health Act (OSHA) 29 CFR 1910.1001 &
1926.1001, 1925, to subsequent dates or additions);
6) Commercial and Public Building Abatement Act [25 ILCS
207].

b) Copies of the incorporated materials are available for inspection and copying by the public at the Capital Development Board, 3rd floor, Rm. G, Stratton Building, Springfield IL 62706.

(Source: Amended at 10 Ill. Reg. _____, effective _____)

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Bidder Responsibility
- 2) Code Citation: 41 Ill. Adm. Code 950
- 3) Section Number(s):
950.110
Amendment
Proposed Action:
- 4) Statutory Authority: Implementing and authorized by Section 3.06 of the Capital Development Board Act (30 ILCS 300.5, 3.06) and authorized by Sections 5 and 6 of the Illinois Purchasing Act (30 ILCS 305/5 and 6.1).
- 5) A Complete Description of the Subjects and Issues Involved: This rule is being amended to clarify that violation of suspension, debarment, etc., imposed by CDB will result in extension of the terms of suspension, modification, etc. This reflects current practices.
- 6) Will this proposed amendment replace an emergency rule current in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporation by reference? No
- 9) Are there any other proposed amendments pending in this Part? No
- 10) Statement of Statewide Policy Objectives: This proposed amendment does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 305 3(b)).
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: From the date that this notice first appears in the Illinois Register, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:
- Claire Gibson, Deputy Chief Counsel
Capital Development Board
3rd floor, Rm. G, Stratton Bldg.
Springfield, Illinois 62706
Telephone: 217-828-2176
Telex: 217-828-2172
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: No new effect.
- B) Retaining, bookkeeping or other procedures required for compliance: None.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: None.

- 13) Regulatory Agenda on which this rulemaking was submitted: This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated when the two most recent regulatory agendas were published.

The full text of the proposed amendment begins on the next page:

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 14: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL DOCUMENT
CHAPTER XII: CAPITAL DEVELOPMENT BOARD

PART 950

BIDDER RESPONSIBILITY

SUBPART A: BIDDER RESPONSIBILITY

950.110	Purpose
950.120	Policy
950.130	Definitions
950.140	Special Projects
950.150	Confidentiality
950.160	Sources for Determining Responsibility
950.170	Processing of Contractor Bidder Responsibility and Renewal
950.180	Ineligibility

SUBPART B: SUSPENSION, DEBARMENT, MODIFICATION OF ABILITY TO BID, AND
CONDITIONAL RESPONSIBILITY DETERMINATION

950.200	Actions Affecting Responsibility
950.210	Causes for Suspension, Modification of Ability to Bid, or Conditional Responsibility Determination

SUBPART C: APPLICATION OF CDB ACTION

950.300	General
950.310	Violation of CDB Order
950.320	Nullification of Responsibility
950.330	Denial of Award of Contract
950.340	Debarment
950.350	Reapplication for Responsibility Determination
950.360	Extension of CDB Action
950.370	Effect on Current Contracts
950.380	Stays of Decisions
950.390	Settlement

SUBPART D: PROCEDURES

950.400	Review
950.410	Conference
950.420	Executive Director
950.430	Request for Reconsideration
950.440	Final Consideration
950.450	Burden of Proof

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

corporation affected: None

a) Reporting, bookkeeping or other procedures required for compliance:
None

c) Types of professional skills necessary for compliance: None

- 13) Regulatory agenda on which this rulemaking was initiated: This rule was initiated on the basis of the fact that recent agendas released by the Capital Development Board, which were not anticipated when the two most recent regulatory agendas were published.

The full text of the proposed amendment begins on the next page:

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY

CHAPTER 1: CAPITAL DEVELOPMENT BOARD

SUBCHAPTER a: RULES

PART 10

BOARD ACTION

Section

- 10.100 General Policy
10.110 Agenda and Notice
10.120 Quorum
10.130 Vice-Chairperson & Secretary
10.140 Agenda and Order of Proceedings
10.150 Rules for Meeting
10.160 Board Action
10.170 Minutes
10.180 Revision of Rules (Repealed)
10.190 Litigation

AUTHORITY: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105].

SOURCE: Adopted at 2 Ill. Reg. 10, P. 10, effective July 27, 1978; amended at 4 Ill. Reg. 3, P. 333, effective February 24, 1980; amended at 5 Ill. Reg. 1980, effective February 17, 1981; amended and codified at 8 Ill. Reg. 10340, effective October 1, 1984; amended at 10 Ill. Reg. _____, effective _____.

Section 10.110 General Policy

- a) The Board shall conduct itself in accordance with the Open Meetings Act, 5 ILCS 1201 and all Act sections of the Board shall be made pursuant to deliberations open to the public except to the extent permitted by Sections 2 and 3 of the Open Meetings Act that otherwise may be necessary.
- b) It is the policy of the Board to permit public participation at all public meetings of the Board.
- c) The public shall have free access to the agenda of all Board meetings of the Board. Any person may, upon application to the Board, receive such agenda as they are promulgated from time to time.
- d) The public shall have free access to minutes of the Board and Board meeting minutes released pursuant to Section 2.6 of the Open Meetings Act. Any and person may receive copies thereof on payment of the cost of reproduction. The charge assessed shall be based on the reproduction charges set forth in 2 Ill. Adm. Code 101, App. 3.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

CAPITAL DEVELOPMENT BOARD
NOTICE OF PROPOSED AMENDMENTS

the Illinois Administrative Procedure Act--Ill. Rev. Stat. 1987, ch. 127, par. 1-2, et seq., as amended.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

CAPITAL DEVELOPMENT BOARD
NOTICE OF PROPOSED REPEAL

- 1) Heading of the Part: Definitions
- 2) Code Citation: 44 Ill. Adm. Code 900
- 3) Section Numbers: 900.110
Repeal
- 4) Statutory Authority: Implementing the Capital Development Board Act (30 ILCS 3105) and authorized by Section 1A-1 of that Act.
- 5) A Complete Description of the Subjects and Issues Involved: This rule is being repealed and definitions will be included as a Section in the applicable Parts of Capital Development Board's rules, when needed.
- 6) Will this proposed repeal replace an emergency rule current in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed repeal contain incorporation by reference? No
- 9) Are there any other proposed amendments pending in this Part? No
- 10) Statement of Statewide Policy Objectives: This proposed repeal does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 315.5(b)).
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: From the date that this notice first appears in the Illinois Register, for a period of 15 days thereafter, interested persons may submit comments, in writing, to:

Claire Gibson, Deputy Chief Counsel
Capital Development Board
324 Moorpark, Stratton Bldg.
Springfield, Illinois 62706
Telephone: 217/782-0392
- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None.

B) Reporting, bookkeeping or other procedures required for compliance: None.

C) Types of professional skills necessary for compliance: None.

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managing agent of a company or any person or company having legal or beneficial ownership of a company exceeding 1/2 percent. In the event an owner (legal or beneficial) of such company is itself another corporation, partnership, trust or business association, "any person" means any person who owns or controls such company. The notice shall also mean and include the ultimate individual owner of the company.

h) Permitted Bidder Years means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any bid for a public contract is first advertised or announced. (Ill. Rev. Stat. 1983, ch. 127, par. 12.5.1.f.)

(Source: Amended at 8 Ill. Reg. 1039, effective October 1, 1984)

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- 1) Heading of the Part: Definitions
- 2) Code Citation: 71 Ill. Adm. Code 1
- 3) Section Numbers:
1.1.10
Repeal.
- 4) Statutory Authority: Implementing the Capital Development Board Act (20 ILCS 3105) and authorized by Section A-1 of that Act.
- 5) A Complete Description of the Subjects and Issues Involved: This rule is being repealed and definitions will be included as a section in the applicable Parts of Capital Development Board's rules, when needed.
- 6) Will this proposed repealer replace an emergency rule current in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed repealer contain incorporation by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This proposed repealer does not create or expand a state mandate as defined in Section 1(c) of the State Mandates Act (30 ILCS 805.3(b)).
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: From the date that this notice first appears in the Illinois Register, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

Claude Gibson, Deputy Chief Counsel
 Capital Development Board
 3rd Floor, Wm. T. Stratton Bldg.
 Springfield, Illinois 62706
 Telephone: 217/421-1392
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None.
 - B) Reporting, bookkeeping or other procedures required for compliance: None.
 - C) Times of professional skills necessary for compliance: None.

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13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated when the two most recent regulatory agendas were published.

The full text of the proposed repealer begins on the next page:

CAPITAL DEVELOPMENT BOARD
NOTICE OF PROPOSED REPEALER

TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY
CHAPTER 1: CAPITAL DEVELOPMENT BOARD
SUBCHAPTER a: RULES

PART 1
DEFINITIONS (REPEALED)

Section
1.110 Definitions

AUTHORITY: Implementing and authorized by the Capital Development Board Act (Ill. Rev. Stat. 1983, Ch. 127, par. 71 et seq.).

SOURCE: Adopted at 2 Ill. Reg. 30, P. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, P. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1990, effective February 17, 1981; amended and codified at 8 Ill. Reg. 2164, effective October 1, 1984; repealed at 20 Ill. Reg. _____, effective _____.

Section 1.110 Definitions

- a) Act: The Capital Development Board Act of 1972 (Ill. Rev. Stat. 1983, Ch. 127, par. 71 et seq.)
- b) Board: The Capital Development Board, created by the Act (Ill. Rev. Stat. 1983, Ch. 127, par. 73).
- c) Chairperson: The Chairperson of the Capital Development Board.
- d) Executive Director: The chief executive officer of the Board.
- e) Executive Staff: The Executive Director of the Board and other agents or employees of the Board whose activities are supervised by the Executive Director.
- f) State Agency: Means and includes each officer, department, board, commission, institution, body politic and corporate of the state including the Illinois Building Authority, school districts, and any other person expending or encountering state or federal funds by virtue of an appropriation or other authorization by the General Assembly or federal authorization or grant. Except as otherwise expressly authorized by the General Assembly, the term does not include the Department of Transportation, or Environmental Protection Agency, except as respects buildings used by the Department or Agency for its officers, employees, or equipment, or any of them, and for its operations and maintenance. It does not include the Illinois State Police, Illinois Housing Development Authority, the Educational Facilities Authority or the St. Louis Metropolitan Area Airport Authority (Ill. Rev. Stat. 1983, Ch. 117, par. 1-33).
- g) Key Person: For purposes of these Rules, "Key Person" or "Key Persons" shall mean any officer, director, partner, proprietor or managing agent of a company or any person or company having legal or

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beneficial ownership of a company exceeding 7 1/2 percent. In the event an owner (legal or beneficial) of such company is itself another corporation, partnership, trust or business association, "Key Person" or "Key Persons" shall also mean and include the ultimate individual owners (legal or beneficial) thereof.

n) Resident Bidder: Means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any bid for a public contract is first advertised or announced, including a foreign corporation duly authorized to transact business in this State, which State at which it was actually transacting business in the date when any bid for a public contract is first advertised or announced. (Ill. Rev. Stat. 1983, ch. 127, par. 132.6.1.)

(Source: Amended at 9 Ill. Reg. 10264, effective October 1, 1984.)

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NOTICE OF PROPOSED REPEAL

1) Heading of the Part: Hearing Procedures

2) Code Citation: 71 Ill. Adm. Code 100

3) Section Numbers:
 Proposed Action:
 100.110 Repeal
 100.120 Repeal
 100.130 Repeal
 100.140 Repeal
 100.150 Repeal
 100.160 Repeal
 100.170 Repeal
 100.180 Repeal
 100.190 Repeal
 100.200 Repeal
 100.210 Repeal
 100.220 Repeal
 100.230 Repeal
 100.240 Repeal
 100.250 Repeal
 100.260 Repeal
 100.270 Repeal
 100.280 Repeal
 100.290 Repeal
 100.300 Repeal
 100.310 Repeal
 100.320 Repeal
 100.330 Repeal

4) Statutory Authority: Implementing the Capital Development Board Act (20 ILCS 3105) and Article 10 of the Illinois Administrative Procedure Act (5 ILCS 100/Art. 10) and authorized by Section 1A-11 of the Capital Development Board Act (20 ILCS 3105 1A-11).

5) A Complete Description of the Subjects and Issues Involved: The Part being repealed will be replaced by new proposed rules published in this same issue of the Illinois Register.

6) Will this proposed repeal replace an emergency rule current in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed repeal contain incorporation by reference? No

9) Are there any other proposed amendments pending in this Part? No

10) Statement of Statewide Policy Objectives: This proposed repeal does not

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create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 805/3(b)).

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: From the date that this notice first appears in the Illinois Register, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

Claire Gibson, Deputy Chief Counsel
Capital Development Board
3rd floor, Wm. S. Stratton Bldg.
Springfield 11 62706
(217) 782-1192

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporation affected: Small architecture or engineering firms requesting a hearing may be affected.

B) Reporting, bookkeeping or other procedures required for compliance: None.

C) Types of professional skills necessary for compliance: None.

13) Regulatory agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated when the two most recent regulatory agendas were published.

The full text of the proposed repealer begins on the next page:

CAPITAL DEVELOPMENT BOARD
NOTICE OF PROPOSED REPEALER

TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY
CHAPTER I: CAPITAL DEVELOPMENT BOARD
SUBCHAPTER a: RULES

PART 100
HEARING PROCEDURES (REPEALED)

Section	Applicability
100.110	Filing
100.120	Filing Documents
100.130	Computation of Time
100.140	Appearance
100.150	Notice of Hearing
100.160	Motion and Answer
100.170	Postponement or Continuance of Hearing
100.180	Hearing Procedures
100.190	Determination by Board
100.200	Scope of Determination
100.210	Interim Suspension
100.220	Bias or Disqualification of Hearing Officer
100.230	Subpoenas
100.240	Conduct of the Hearing
100.250	Default
100.260	Exemption
100.270	Witnesses
100.280	Transcription of Proceedings
100.290	Hearing Officer's Findings, Opinions, and Recommendations
100.300	Order
100.310	Existing Statutory or Board Procedures and Practices
100.320	Severability
100.330	

AUTHORITY: Implementing the Capital Development Board Act (Ill. Rev. Stat. 1983, ch. 127, par. 7-1 et seq.) and Article 10 of the Illinois Administrative Procedures Act (Ill. Rev. Stat. 1991, ch. 127, par. 100-5 et seq.) and authorized by Section 1A-11 of the Capital Development Board Act (Ill. Rev. Stat. 1991, ch. 127, par. 783.11).

SOURCE: Adopted at Ill. Reg. 10249, effective October 1, 1984; amended at 3 Ill. Reg. 2306, effective October 29, 1985; repealed at 20 Ill. Reg. _____, effective _____.

Section 100.110 Applicability

This Part shall apply to all hearings conducted under the jurisdiction of the Capital Development Board.

Section 100.120 Filing

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Documents and requests permitted or required to be filed with the Board in connection with a hearing shall be addressed to and mailed to or filed with the Capital Development Board, 3rd Floor William G. Stratton Building, 401 South Spring Street, Springfield, Illinois 62766, in duplicate. The offices of the Board are open for filing and inspection and copying of public documents from 8:30 A.M. to 5:00 P.M., Monday through Friday, except on National and State legal holidays.

Section 100.130 Form of Documents

- Documents shall clearly show the file hearing number and the title of the proceedings in connection with which they are filed.
- Except as otherwise provided, 2 copies of all documents including notices, motions, and petitions, shall be filed with the Board.
- Documents shall be typewritten or reproduced from typewritten copy on letter size white paper.
- One copy of each document filed shall be signed by the party or by his authorized representative or attorney.

Section 100.140 Computation of Time

- Computation of any period of time prescribed by this title shall begin with the first business day following the day in which the act, event or development initiating such period of time occurs, and shall run until the end of the last day, or the next following business day if the last day is a Saturday, Sunday, or legal holiday. Where the period of time is five days or less, Saturdays, Sundays and legal holidays shall be excluded in the computation of time.
- Notice requirements shall be construed to mean notice received, but proof that notice was dispatched by means reasonably calculated to be received by the prescribed date shall be prima facie proof that notice was timely received.

Section 100.150 Appearances

- Any person entitled to participate in proceedings may appear as follows:
 - A natural person may appear in his own behalf or by an attorney at law licensed to practice in the State of Illinois, or both.
 - A business, nonprofit, or government organization may appear by any bona fide officer, employee, or representative, or may be represented by an attorney licensed to practice in the State of Illinois, or both.
- Attorneys not licensed to practice in the State of Illinois may appear as attorneys.
- An attorney appearing in a representative capacity shall file a written notice of appearance.

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Section 100.160 Notice of Hearing

- Board of administrative hearings shall be initiated by the issuance by the Board of a written Notice of Hearing. Said Notice of Hearing shall inform the Respondent of the time, place and nature of the hearing, and the legal authority and jurisdiction under which the hearing is to be held. Said Notice shall contain a clear statement of the matters asserted and also complaints or demands. The Respondent shall be notified by registered mail, postage prepaid, addressed to the last known address of the Respondent or their agents appointed to receive service of process. Notice shall be served not less than 10 days before the date designated for the hearing.

Section 100.170 Motion and Answer

- Any party receiving a Notice of Hearing may file an answer not later than five days prior to the date of hearing. All answers or motions preliminary to a hearing shall be presented to the Board and to the Hearing Officer at least five days prior to the date of hearing. Answers shall be served personally or by registered or certified United States mail. Unless made orally on the record during a hearing an answer or motion shall be in writing and shall be accompanied by any affidavits or other evidence called upon and, as appropriate, by a proposed order. At least two copies of all such motions shall be filed with the Board (one for the Board attorney and one for the Hearing Officer) and at least one copy served on each additional party, if any, to the Hearing.
- Within five days after service of a written motion, a party may file a response in support of or in opposition to the motion, accompanied by affidavits or other evidence. If no response is filed within five days after service of a motion, the motion shall be deemed to be granted. If the motion is denied, the moving party shall have the right to reply, only when specifically granted to the Hearing Officer, based on the complexity of the question presented or the implication of a fundamental right.
- A written order may be filed with a motion or an answer to a motion, stating the arguments and authorities called upon. The movant may request oral argument. The Hearing Officer shall permit oral argument only when based on such factors as the complexity of the question presented or the implication of a fundamental right. The Hearing Officer determines that it is necessary to insure a fair and complete adjudication of the underlying case.
- A written motion will be disposed of by written order and on notice to all parties.
- The Hearing Officer shall rule upon all motions, except that he shall have no authority to dismiss or decide a hearing on the merits without

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granting all parties to the proceeding a right to be heard and to establish a record.

g) The filing of an answer or motion shall not stay the proceeding or extend the time for the performance of any act.

h) A party may participate in such proceedings without forfeiting any jurisdictional objection, if such objection is raised at or before the time the party files its answer or motion or, if no answer or motion is made, before the commencement of the hearing.

(Source: Amended at 9 Ill. Reg. 17306, effective October 29, 1985)

Section 100.180 Postponement or Continuance of Hearing

a) A hearing shall be postponed or continued for due cause as determined by the Executive Director or the Hearing Officer upon their own motion or upon motion of a party to the hearing.

b) Factors that would constitute due cause include, but are not limited to:

- 1) demonstrated need for more time to prepare a party's case;
- 2) unavailability of a necessary witness on a particular date;
- 3) previously scheduled engagement of a party if attorney or record which cannot be changed; and
- 4) should preclude the party's or attorney's attendance or continuance shall be given in writing to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date.

(Source: Amended at 9 Ill. Reg. 17306, effective October 29, 1985)

Section 100.190 Hearing Procedures

- a)
 - 1) The Executive Director shall designate a Hearing Officer to conduct any hearing held under this part.
 - 2) Upon motion of any party or upon his/her own motion, the Hearing Officer shall have the authority to postpone a hearing for a cause previously scheduled or to be held in good cause shown. Factors that constitute good cause include, but are not limited to:
 - A) demonstrated need for more time to prepare a party's case;
 - B) unavailability of a necessary witness for preparation of the case or to appear at a hearing on a particular date;
 - C) previously scheduled engagement of a party, attorney or record or Hearing Officer which cannot be changed and would preclude the person's attendance at a hearing.
 - 3) The Hearing Officer may condition the granting of a respondent's request for an extension on the imposition of an interim suspension should circumstances warrant such action.

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b) No depositions shall be taken or interrogatories or other discovery proceedings be used prior to the hearing, except as provided herein:

- 1) any party who has reason to believe that a person whom he or she intends to call as a witness at the hearing will not be available to testify at the hearing shall promptly notify all other parties and shall move that an evidence deposition be taken. Upon proof of the matters asserted in the motion, the hearing officer shall order a deposition to be taken. The cost of the deposition shall be associated with the deposition be paid by the moving party;

- 2) any party wishing to undertake prehearing discovery other than that provided for in subparagraph 3) below shall submit a written motion to the Hearing Officer with a copy served on all parties and attorneys of record. Setting forth in detail the information sought and the party or person from whom it is sought and the form of discovery requested. The hearing officer shall grant such motion only upon finding that the information sought is essential to the preparation of the moving party's case and that to deny the motion would constitute a denial of constitutional due process rights;

- 3) any party to the proceeding shall have the right to direct any other party to produce for inspection, copying, reproduction or photographing, discovery documents and tangible objects and to depose any person in the party's possession, custody, control and service. A copy of the request shall be sent to the Hearing Officer and shall become part of the record of the case. The request shall specify a reasonable time, place and manner of making the inspection and copying.

c) The Hearing Officer shall:

- 1) regulate the course and scheduling of the hearing;
- 2) rule on offers of proof and receive relevant evidence;
- 3) take action necessary to ensure an orderly hearing; and
- 4) issue to the Executive Director and all parties of record all findings of fact and recommended administrative action.
- d) All testimony at the hearing shall be recorded.
- e) The hearing shall be held in public, except that the presence of a person having a demonstrated individual physical handicap, or a person having a demonstrated individual mental handicap, shall be a ground for the hearing to be held in private.
- f) The Hearing Officer shall receive and make part of the record documentary evidence offered by any party and accepted at the hearing and copies thereof shall be made available to other parties to the hearing at their request.
- g) In cases where it has been established by admission or conviction (which shall include a plea of nolo contendere) or judgment of a court of competent jurisdiction that the Respondent has engaged in conduct prohibited by any of the rules of the Capital Development Board or where it has been established by findings made in accordance with law that the Respondent has engaged in conduct prohibited by another governmental entity that the Respondent has engaged in conduct proscribed by Board rules, the sole issue before the Hearing

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Officer shall be the appropriate length of suspension. In such cases the Hearing Officer shall not receive evidence relating to the merits of the prior judicial or administrative action findings.

- h) In all hearings conducted under these rules, the Hearing Officer shall take findings on the record and the record shall include such findings and recommendations, to the Executive Director for his review.

- i) The Executive Director, upon receiving the Hearing Officer's findings of fact and recommended administrative action, shall review the Hearing Officer's report and determine the administrative action to be taken.

- j) Upon receiving his determination, the Executive Director shall notify the respondent of the determination, setting forth the period of time during which such respondent shall be suspended from bidding on Board contracts or contracts requiring Board approval, or concurrence. The respondent shall be promptly notified if the Executive Director's action is a suspension of bidding on Board contracts or contracts requiring Board approval, or concurrence. Upon receiving a copy of the hearing report, the respondent shall file a written appeal with the Executive Director within ten days of the date of the final determination. Any interim suspension shall be deducted from the period of final suspension.

(Source: Amended at 9 Ill. Reg. 1.206, effective October 29, 1985)

Section 100.200 Determination by Board

A Respondent may appeal a suspension by filing a written request with the Board within ten days of the date of the Executive Director's Order. The Board shall review the entire record at the time and shall either: increase or decrease the length of suspension; change the suspension to a suspension based on evidence contained in the record; or the suspension shall be based on evidence clearly set forth in the record, in which the decision is based. Notice of the Board's decision shall be given in writing, by registered or certified mail, to all appellants and their attorneys of record. The Board's written decision shall become part of the record at the time.

(Source: Amended at 9 Ill. Reg. 1.206, effective October 29, 1985)

Section 100.210 Scope of Determination

- a) The determination set forth in Section 100.200 shall apply to the respondent in any subsequent suspension proceedings.
- b) The determination shall also apply to any associated organization or business entity in which any officer, director or occupies any other substantial management position, until such time as the individual is severed from such organization or

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- 2) a suspended individual has controlling legal or beneficial financial interest, until such time as the suspended individual divests himself of such interest; or
- 3) a suspended organization controls or is controlled by such associated business transaction or entity which, subsequent to such administrative action, is taken, begins or holds itself out as administrative action, to increase demonstrates by its action subsequent to the period of suspension that it is evading the suspension.
- Executive Director's determination that it is evading the suspension shall be subject to the hearing requirements provided in this Part.
- c) Any issue of fact as to the scope of determination shall be subject to the hearing requirements provided in this Part.
- d) Any suspended contractor shall, for the term of such suspension, be ineligible to perform work as an approved subcontractor on contracts awarded or approved by the Board.

Section 100.220 Interim Suspension

- a) The Executive Director shall immediately suspend a prequalified bidder from bidding on Board contracts or contracts requiring Board approval or approval of the Board, upon receipt of adequate evidence of conviction or entry of a plea of guilty to a criminal violation of the Illinois Criminal Code, Sections 11-1 through 11-10, including violations of the Illinois Criminal Code, Act (Ill. Rev. Stat. 1993, Ch. 11, par. 11-1, et seq.) or any other criminal violation of a State or Federal law which indicates a lack of business integrity including embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or to any criminal violation of an antitrust law.

- b) The Executive Director shall furnish written notice, by certified mail, to the contractor, specifying the charges or facts on which the interim suspension is based.

- c) The notice, hearing and suspension procedure set forth in this Part of the rules shall apply to the contractor. The suspension hearing shall be scheduled no later than 10 days after imposition of an interim suspension.

Section 100.230 Bias or Disqualification of Hearing Officer

- a) Any party to the proceeding may file a timely and sufficient affidavit setting forth allegations of personal bias or prejudice of the presiding Hearing Officer, and requesting that the Executive Director disqualify the Hearing Officer. The Executive Director shall disqualify the Hearing Officer only upon presentation of sufficient credible evidence of personal bias or prejudice of the Hearing Officer. It is a finding that it is more likely than not that the allegations are true. If it is found that the Executive Director shall disqualify the Hearing Officer, the Executive Director shall determine, based on the evidence presented, whether the presiding Hearing Officer shall be disqualified. The Executive Director's

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determination shall be part of the record of the case. When a Hearing Officer is disqualified or it becomes impractical for him or her to continue, another Hearing Officer shall be designated before the proceedings are commenced.

b) The Hearing Officer may at any time voluntarily disqualify himself or herself.

(Source: Amended at 9 Ill. Reg. 17306, effective October 29, 1985)

Section 100.240 Subpoenas

- a) Upon application to the Hearing Officer by any party, the Hearing Officer shall issue a subpoena for attendance at hearing, which may include a command to produce books, papers, documents, or tangible things designated therein and reasonably necessary to resolution of the matter under consideration, subject to the limitations on discovery prescribed by this Rule.
- b) Every subpoena shall state the title of the action and shall command each person to whom it is directed to attend and give testimony at the time and place therein specified.
- c) The Hearing Officer, the Executive Director, upon motion made at or before the hearing, may require the attendance of any witness, and may quash or modify the subpoena if it is unreasonable and oppressive.

Section 100.250 Conduct of the Hearing

- a) All hearings shall be public unless required by statute to be otherwise. Any person may submit written statements relevant to the subject matter of the hearing. Any person submitting such a statement shall be subject to cross-examination by any party. If such person is not available for cross-examination upon five days written notice to appear at the hearing, the written statement shall be stricken from the record. The Hearing Officer may permit any person to offer oral testimony whether or not such person is a party to the proceedings.
- b) The following shall be the order of proceedings in all hearings, subject to modification by the Hearing Officer for good cause:
- 1) presentation, argument and opposition of matters preliminary to the hearing on the merits of the matters raised in the Notice or Answer;
 - 2) presentation of opening statements;
 - 3) complainant's case in chief;
 - 4) respondent's case in chief;
 - 5) complainant's case in rebuttal;
 - 6) statements from interested citizens, if authorized by the Hearing Officer;
 - 7) complainant's closing statement, which may include legal argument;
 - 8) respondent's closing statement, which may include legal argument;

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- 9) presentation and argument of all motions prior to final order.
- (Source: Amended at 9 Ill. Reg. 17306, effective October 29, 1985)

Section 100.260 Default

Failure of a party to appear on the date set for hearing, or failure to proceed as ordered by the Hearing Officer, shall constitute a default. The Hearing Officer shall thereupon enter such findings, opinions, and recommendations as is appropriate under the pleadings and such evidence as he or she shall receive into the record.

Section 100.270 Evidence

- a) The Hearing Officer shall receive evidence which is admissible under the rules of evidence pertaining to civil actions in the circuit courts of Illinois. In addition, the Hearing Officer may receive material, relevant evidence, which would be relied upon by a reasonably prudent person in the conduct of serious affairs, which is reasonably reliable and reasonably necessary to resolution of the issue for which it is offered; provided that the rules relating to privileged communications and privileges topics shall be observed, and the Hearing Officer shall exclude immaterial, irrelevant, and incompetent evidence.
- b) Subject to the provisions of paragraph (a) of this Section, a party may conduct cross-examination required for a full and fair disclosure of the facts.
- c) Notice may be taken of all facts of which judicial notice may be taken by the circuit courts of this state and of other facts, of a technical nature, within the specialized knowledge and experience of the Capital Development Board. (Ill. Rev. Stat. 1981, ch. 127, par. 1012)

Section 100.280 Hostile Witnesses

- a) If the Hearing Officer determines that a witness is hostile or unwilling, he or she may be examined by the party calling him or her as if under cross-examination. A witness is hostile or unwilling when that witness refuses to answer a proper question which is successfully asked by that party, or testifies in a manner which is contrary to knowledge or that party's case, or refuses to answer a question after a refusal to answer, or any other conduct that Illinois courts have held to be hostile. (Ill. Rev. Stat. 1981, ch. 127, par. 1012; Ill. Rev. Stat. 1983, ch. 110A, par. 218)
- b) The party calling an occurrence witness, upon the showing that he called the witness in good faith and is surprised by his testimony, may impeach the witness by proof of prior inconsistent statements.

(Source: Amended at 9 Ill. Reg. 17306, effective October 29, 1985)

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Section 100.290 Transcription of Proceedings

- a) Oral proceedings at which evidence is presented shall be recorded and certified court reporter or a mechanical recording device, but need not be transcribed unless requested by a party who shall pay the cost of transcription. Any transcription for the transcription of the portion requested. Any transcription will be retained through and including the time allotted for appeal, revision, rehearing or other manner of review prior to final disposition as provided for by the Board or by law.
- b) The transcript and the record placed in connection with the hearing shall transmit the official record. Before the transcript is filed the Hearing Officer shall notify the parties that the transcript has been produced, receive corrections from any person, examine the transcript for accuracy and then within a reasonable time certify that it is a true and correct transcript of the hearing. Only after such certification may the Board review the transcript. The transcript shall be available for public inspection unless it contains material privileged against disclosure, such as trade secrets.
- c) The record in an administrative hearing shall include:
 - 1) All pleadings including all notices and responses thereto, motions, and rulings;
 - 2) Evidence received;
 - 3) A statement of matters officially noticed;
 - 4) Offers of proof, objections and rulings thereon;
 - 5) Proposed findings and exceptions;
 - 6) Any decision, opinion or report by the Hearing Examiner;
 - 7) All staff memoranda or data submitted to the Hearing Examiner or the case and agency in connection with their consideration of the case;
 - 8) Any communication prohibited by Section 10-50 of the Illinois Administrative Procedure Act, Ill. Rev. Stat. 1991, ch. 127, par. 1010-50, but such communications shall not form the basis for any finding of fact. (Ill. Rev. Stat. 1991, ch. 127, par. 1010-35)

Section 100.300 Hearing Officer's Findings, Opinions, and Recommendations

- a) The Hearing Officer's Findings, Opinions, and Recommendations shall be in writing and shall include findings of fact and conclusions of law, or opinions separately stated when practicing findings of fact shall be stated. The findings of fact shall be supported by evidence presented at all parties, including matters officially noticed. Findings of fact, if set forth in arbitrary language, shall be accompanied by a statement of the hearing supporting facts. If a party admits proposed findings of fact which may control the decision or order, the decision or order shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by authority or reasoned

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- opinion. A decision or order shall not be made except upon consideration of the record as a whole or such portion thereof as may be supported by competent material and substantial evidence.
- b)
 - 1) If the recommended decision is adverse to a party to the proceeding other than the Board, each party adversely affected shall be entitled to file exceptions to the decision and to file a brief.
 - 2) The proposal for decision shall contain a statement of the reasons therefor and of each issue of fact or law necessary to the proposed decision, prepared by the Hearing Officer or a person who has read the record. (Ill. Rev. Stat. 1991, ch. 127, par. 1113)
 - 3) The Hearing Officer shall then submit his or her Findings, Opinions, and Recommendations to the Executive Director.

Section 100.310 Order

- a) The Executive Director shall review the Hearing Officer's Findings, Opinions and Recommendations and shall issue a written Order. The Order shall be effective immediately unless otherwise specified in the Order.
- b) Parties shall be served with a copy of the Order by mail, postage prepaid, certified, or registered, addressed to the last known address of the person, partnership, association, or company involved. A copy of the Order shall be mailed to each party and to his attorney of record.
- c) The Executive Director may, as part of his Order, require any party to the proceeding to pay part or all of the costs of the hearing. The hearing officer shall have the authority to require the hearing officer fees, the taxing of such costs shall be based on a finding that the party to be taxed conducted itself in such a way as to unnecessarily delay the proceedings. Conduct which constitutes frivolous motions or the presentation of repetitive evidence which does not aid the truth finding purpose of the proceedings, but merely prolongs the hearing.

(Source: Amended at 9 Ill. Reg. 1734, effective October 19, 1995)

Section 100.320 Existing Statutory or Board Procedures and Practices

This Part shall not be construed to limit or repeal additional requirements imposed by Statute or otherwise, nor to change existing Board Procedures which are equivalent to or exceed the standards of administrative procedures prescribed in this Rule.

Section 100.330 Severability

CAPITAL DEVELOPMENT BOARD
NOTICE OF PROPOSED REPEALER

If any section, sentence or clause of this Part is for any reason held invalid or unconstitutional, the validity of the remaining portions of this Part shall not be affected.

CAPITAL DEVELOPMENT BOARD
NOTICE OF PROPOSED RULES

1) Heading of the Part: Hearing Procedures

2) Code Citation: 71 Ill. Adm. Code 100

3) Section Numbers:

Proposed Action:
New Section 100.110
New Section 100.120
New Section 100.130
New Section 100.140
New Section 100.150
New Section 100.160
New Section 100.170
New Section 100.180
New Section 100.190
New Section 100.200
New Section 100.210
New Section 100.220
New Section 100.230
New Section 100.240
New Section 100.250
New Section 100.260
New Section 100.270
New Section 100.280
New Section 100.290

4) Statutory Authority: Implementing the Capital Development Board Act (20 ILCS 3105) and Article 10 of the Illinois Administrative Procedure Act (5 ILCS 100/Art. 10) and authorized by Section 14-11 of the Capital Development Board Act (20 ILCS 3105-14-11).

5) A Complete Description of the Subjects and Issues Involved: Describes required procedures for any administrative hearings conducted by the Capital Development Board.

6) Will this proposed rule replace an emergency rule current in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporation by reference? No

9) Are there any other proposed amendments pending in this Part? No

10) Statement of Statewide Policy Objectives: This proposed rule does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 235/3(b)).

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: From the date that this notice first appears in the

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Illinois Register, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

Claire Gibson, Deputy Chief Counsel
Capital Development Board
3rd Floor, Wm. G. Stratton Bldg.
Springfield, Illinois 62706
Telephone: 217/782-1392

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small architecture or engineering firms requesting a hearing may be affected.
- B) Reporting, bookkeeping or other procedures required for compliance: Requires timely submittal of petitions and other documents.
- C) Types of professional skills necessary for compliance: None.

- 13) Regulatory agenda in which this rulemaking was summarized: This rule was not included in either of the 3 most recent agendas because this rulemaking was not anticipated when the two most recent regulatory agendas were published.

The full text of the proposed rule begins on the next page:

CAPITAL DEVELOPMENT BOARD

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TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY
CHAPTER 1: CAPITAL DEVELOPMENT BOARD
SUBCHAPTER 1: RULES

PART 100

HEARING PROCEDURES

Section	100.110	Applicability
	100.120	Request for Hearing
	100.130	Waiver
	100.140	Settlement
	100.150	Representation
	100.160	Hearing Officer
	100.170	Submittal of Documents
	100.180	Conference
	100.190	Notice of Hearing
	100.200	Costs of Hearing
	100.210	Disqualification of Officer
	100.220	Hearings
	100.230	Agendas
	100.240	Powers of the Hearing Officer
	100.250	Burden of Proof
	100.260	Duties of the Hearing Officer
	100.270	Executive Director's Decision
	100.280	Petition for Reconsideration
	100.290	Final Consideration

AUTHORITY: Implementing the Capital Development Board Act (20 ILCS 1195) and Article 10 of the Illinois Administrative Procedure Act (5 ILCS 100/Art. 10) and authorized by Section 14-11 of the Capital Development Board Act (20 ILCS 1195/14-11).

SOURCE: Adopted at 8 Ill. Reg. 20269, effective October 1, 1984; amended at 9 Ill. Reg. 17306, effective October 29, 1985; Part repeated, new Part adopted at 20 Ill. Reg. _____, effective _____.

Section 100.110 Applicability

These rules, in addition to Article 10 of the Illinois Administrative Procedures Act (5 ILCS 100/Art. 10), shall apply to contested cases of final Board actions, when the Board determines that a hearing is required by law. At its sole discretion, the Board may grant a hearing when not required by law, but such grant shall not set any precedent, nor shall it act as a waiver of any portion of this Part.

Section 100.120 Request for Hearing

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Requests for hearing shall be submitted to the Executive Director in writing within 30 days after the final agency action at issue, and shall state clearly and briefly the grounds for the request. The Executive Director shall determine whether the agency action being complained of is subject to judicial review, and if so, whether the agency action is subject to judicial review. A request shall be granted or denied within 30 days after receipt.

Section 100.130 Waiver

Compliance with any provisions of this Part may be waived or altered by written stipulation of all parties. The parties shall, to the greatest extent possible, exercise good faith efforts to agree to utilize informal procedures to promote speedy, economical resolution.

Section 100.140 Settlement

Issues may be resolved in whole or in part by settlement or stipulation among any or all parties at any time prior to, during, or following the hearing.

Section 100.150 Representation

Natural persons may represent themselves or be represented by an attorney, business or other organizations may be represented by a duly appointed officer, owner or employee, or by an attorney. Attorneys shall be licensed in Illinois and shall file a notice of appearance with the Executive Director at, if one has been appointed, with the hearing officer.

Section 100.160 Hearing Officer

The Board shall appoint a hearing officer within 10 days after granting a hearing. The officer shall be an attorney licensed in Illinois who is not an employee of CDB, nor currently under contract with CDB except as a hearing officer in another case.

Section 100.170 Submittal of Documents

Once a hearing officer is appointed, all documents submitted by the parties in the matter shall be submitted to him/her until the Executive Director renders a decision.

Section 100.180 Conference

Within 10 days after his/her appointment as the hearing officer, the officer shall send notice of a conference among all parties for the purpose of discussing the proceedings and promoting settlement by other methods, which may include mediation. Such conference shall be scheduled not less than 10 days after notice, nor more than 30 days after notice.

Section 100.190 Notice of Hearing

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When the officer determines that further settlement efforts are not reasonably expected to be fruitful, he/she shall send the parties a notice of hearing by United States registered or certified mail. The hearing shall be set no sooner than 30 days after notice, nor more than 60 days after notice. Hearings shall be held in CDB's Springfield Office.

Section 100.200 Costs of Hearing

Fees and expenses of the hearing officer and court reporter (or other method of recording) shall be shared equally among CDB and the complainant. All shall pay the same amounts as they become due, regardless of the number of complainants involved. If transcripts (or other types of copies) are desired, each party shall pay for its own.

Section 100.210 Disqualification of Officer

Any party may file a petition with an affidavit alleging personal bias or prejudice of the hearing officer with the Executive Director. The Executive Director may request additional evidence from any party to the officer. The Executive Director shall disqualify the officer only upon presentation of sufficient credible evidence that it is more likely than not the allegations are true. Rulings by the officer against the complainant shall not in themselves constitute sufficient evidence. Within 10 days after disqualification, a new officer shall be appointed.

Section 100.220 Hearings

Hearings shall be conducted in a fair and orderly manner. Neither the Board nor the hearing officer shall be bound by the technical rules of evidence or civil procedure, and no informality in any proceeding or in the manner of taking testimony shall invalidate any order or decision rendered.

Section 100.230 Board Documents

Any relevant documents, including but not limited to books, correspondence, memoranda, and photographs, may be provided by the Board by a reproducible copy thereof under the direction of the Executive Director, and shall submit further proof, be admitted into evidence.

Section 100.240 Powers of the Hearing Officer

The appointed hearing officer shall have the power to:

- a) Preside at hearings and render decisions.
- b) Hear testimony from both sides on the issues.
- c) Grant requests for discovery.
- d) Issue, or authorize issuance of, subpoenas pursuant to 20 ILCS 310/9.03b.
- e) Take evidence, hear testimony, and question parties and witnesses.

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f) Administer oaths.

Section 100.250 Burden of Proof

Documents filed by the Board pursuant to Section 100.230 of this Part, at least 15 days prior to hearing, shall constitute prima facie evidence, which may be rebutted by a complainant. The burden shall be upon the complainant to prove by clear and convincing evidence that the Board's action complained of was an abuse of discretion.

Section 100.260 Duties of the Hearing Officer

The hearing officer shall:

- Record and keep all relevant documents as the official record, which shall be turned over to CDB at the conclusion of the proceedings.
- Exclude irrelevant, immaterial, or unduly repetitious evidence. Irrelevant, immaterial, and unduly repetitious evidence includes, but is not limited to, evidence indicating that the complainant has previously been disciplined, or that the complainant has been involved in similar disciplinary proceedings.
- Deny of limit frivolous claims, discovery, or other methods reasonably interpreted to be for the purpose of causing delay or unnecessarily burdening other parties.
- Assess costs against any party for conduct addressed in subsections (b) and (c) of this Section.
- Utilize whatever methods are required to bring about the hearing at the earliest possible date.
- Deny requests to postpone CDB's Executive Director or Board Members unless the complainant presents sufficient credible evidence to show a reasonable person would believe that such person has relevant, material, firsthand knowledge that is not merely repetitious of evidence already presented to the Board.
- Enter a default upon failure to appear without advance reasonable notice.
- Render a written recommendation containing findings of fact and conclusions, based on the evidence presented, to the Executive Director within 15 days after the hearing.

Section 100.270 Executive Director's Decision

Within 15 days after receipt of the hearing officer's recommendation, the Executive Director shall issue a decision by United States registered or certified mail.

Section 100.280 Petition for Reconsideration

Within 15 days after receipt of the Executive Director's decision, a complainant may file with the Director a written request for reconsideration, explaining in detail the perceived errors and reasons for same. The Executive Director shall respond within 10 days after receipt.

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Section 100.290 Final Consideration

Following completion of all other administrative procedures provided herein, a petition for reconsideration shall be filed with the Capital Development Board for final consideration by the Board of the Executive Director's decision. The petition shall be filed within 10 days after receipt of the Director's decision on the request for reconsideration. The petition shall state the perceived errors and reasons for same. The petition shall be heard at the Board's next regularly scheduled meeting, provided the meeting is at least 10 days after the date CDB received the petition. Petitions the Board deems frivolous or patently without merit may be rejected without further hearing. The complainant shall appear at the meeting and present its case in an informal manner to the Board. The individual Board Members may ask questions as appropriate. The Board shall issue its final decision within 10 days.

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NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Project Procedures
- 2) Code Citation: 71 Ill. Adm. Code 20
- 3) Action Numbers:
20-110
Proposed Action:
Repeal
- 4) Statutory Authority: Implementing the Capital Development Board Act [20 ILCS 3105] and authorized by Section 14-1 of that Act.
- 5) A Complete Description of the Subjects and Issues Involved: This rule is obsolete and therefore being repealed.
- 6) Will this proposed repealer replace an emergency rule current in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed repealer contain incorporation by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This proposed repealer does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 405.2(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: From the date that this notice first appears in the Illinois Register, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

Carole Sibach, Deputy Chief Counsel
Capital Development Board
3rd Floor, Am. G. Stratton Bldg.
Springfield, IL 62766
(217) 792-1332

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was

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not included on either of the 2 most recent agendas because: This rulemaking was not anticipated when the two most recent regulatory agendas were published.

The full text of the proposed repealer begins on the next page:

TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY
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this Part is grounds for denial of the request for services.
(Source: Amended at 9 Ill. Reg. 17335, effective October 29, 1995)

PART 20
PROJECT PROCEDURES (REPEALED)

Section 20.110 Requests from State Agencies
PURPOSE: Implementing the Capital Development Board Act and authorized by Section 1.1 of that Act (Ill. Rev. Stat. 1993, ch. 127, par. 711c; seq. and 753.11).

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 1, 1983; amended at 5 Ill. Reg. 1890, effective February 1, 1984; amended and codified at 2 Ill. Reg. 10339, effective October 1, 1984; amended at 9 Ill. Reg. 17335, effective October 29, 1995; repealed at 10 Ill. Reg. _____, effective _____.

Section 20.110 Requests from State Agencies

- a) All requests from State Agencies for architectural, engineering or construction services funded pursuant to an appropriation by the General Assembly, except those appropriated from the Capital Development Fund or the School Construction Fund, shall be subject to the following schedule:
 - 1) By October 1 of the fiscal year in which the project is appropriated, a preliminary list of all such projects shall be submitted to the Board;
 - 2) Requests for architectural, engineering or construction services funded from treating appropriations shall be submitted to the Capital Development Board before January 15 of the fiscal year in which the project is appropriated. Such requests submitted after January 15 shall be considered late and shall require the project request, based on the size, nature and complexity of the project;
 - 3) Nothing in this title is meant to prevent State Agencies from requesting architectural, engineering, or construction services from the Board where, pursuant to Section 6(a)(3) of the Illinois Purchasing Act (Ill. Rev. Stat. 1983, ch. 127, par. 132.6(a)(3)), funds have to be expended in an emergency.
- b) State Agencies requesting architectural, engineering or construction services in accordance with this Part shall budget sufficient funds to pay design fees of independent architects or engineers who may be engaged for the project.
- c) Failure to meet the time schedules established in Paragraph (a) of

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Standards for Award of Grants Elementary and Secondary Schools Capital Assistance Program

- 2) Code Citation: 71 Ill. Adm. Code 40

- 3) Section Number: Proposed Action:

40.120 Amendment

40.120 Amendment

40.130 Amendment

40.140 Amendment

- 4) Statutory Authority: Implementing the Capital Development Board Act (20 ILCS 3105) and authorized by Section 2-11 of that Act.

- 5) A Complete Description of the Subjects and Issues Involved: Section 40.120(d) is amended to clarify that a school district's "Grant Index" is determined and provided by the Illinois State Board of Education, not the Capital Development Board. The Illinois Revised Statutes citations have been replaced with the Illinois Compiled Statutes citations throughout the text of this rule.

- 6) Will this proposed rule replace an emergency rule current in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporation by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805.3(b)].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: From the date that this notice first appears in the Illinois Register, for a period of 45 days thereafter, interested persons may submit comments, in writing, to:

Claire Gibson, Deputy Chief Counsel

Capital Development Board

3rd floor, Wm. G. Stratton Bldg.

Springfield IL 62706

(217) 782-1392

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None.

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- B) Reporting, bookkeeping or other procedures required for compliance: None.

- C) Types of professional skills necessary for compliance: None.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated when the two most recent regulatory agendas were published.

The full text of the proposed amendment begins on the next page.

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TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY
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PART 10

STANDARDS FOR AWARD OF GRANTS

ELEMENTARY AND SECONDARY SCHOOLS CAPITAL ASSISTANCE PROGRAM

Section

10.110 General Statement

10.110 Planning Assistance Grants

10.110 Construction Grants

10.110 Debt Service Grants

AMENDMENT: Implementing the Capital Development Board Act (20 ILCS 3105) and authorized by Section 1A-11 of that Act.

SOURCE: Adopted at 2 Ill. Reg. 10, p. 110, effective July 27, 1978; amended at 1 Ill. Reg. 9, p. 230, effective February 14, 1980; amended at 5 Ill. Reg. 1890, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20342, effective October 1, 1984; amended at 9 Ill. Reg. 2015, effective October 29, 1985; amended at 9 Ill. Reg. 673, effective April 24, 1989; amended at 20 Ill. Reg. _____, effective _____.

Section 10.110 General Statement

a) The Board will make no grant awards prior to compliance by the school district with the State Board of Education regulations for grant entitlement (see 20 ILCS 3105.1A-11) ~~eff=Rev=State=1989=ch=227=par=19a-11~~.

b) Simultaneous with the submission of applications and district facility plans to the State Board of Education, such documents shall be submitted to the Board. The Board shall request submission of additional information in those cases in which the applications and facility plans do not include all that is necessary to fully evaluate the program. The Board shall request projected financial and anticipated program data. The Board shall request projected additional information related to projected enrollment and anticipated construction program application and facilities plans used during identification, program discrepancies in information and/or are missing information needed to fully evaluate the building needs.

c) School districts failing to provide the local share of funds within the time period set forth in Section 10.110(b)(3)(c) shall lose their priority standing and must reapply in the next fiscal year.

d) The Board will construct and rehabilitate schools according to the building code as established and approved by the State Board of Education (see 105 ILCS 5.15-2.1) ~~eff=Rev=State=1989=ch=227=par=35-197~~.

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Section 10.120 Planning Assistance Grants

a) The purpose of a Planning Assistance Grant is to enable a school district to develop a school construction project program for design implementation. Planning Assistance Grants may be given for such activities as:

- 1) Analyzing and determining specific school construction needs, including existing facilities, the need for remodeling and/or reconstruction, existing facilities, the need for remodeling and/or reconstruction, existing facilities, the need for remodeling and/or reconstruction;
- 2) Technical evaluation of sites for construction;
- 3) Health and Life Safety surveys of specific facilities for which districts intend to request a school construction grant;
- 4) Construction program statement development to establish the functional relationships, work patterns, and traffic flow required by the educational program of the district.

b) The amount of funds available for Planning Assistance Grants shall be a percentage of the appropriations made pursuant to the School Construction Bond Act (20 ILCS 330) ~~eff=Rev=State=1989=ch=227=par=35-19a-11~~ as determined by the Board but may not exceed 1% of such appropriations.

c) The representation of the Planning Process must replace the community representation of the Educational Process as determined by the Board. The second Planning Board shall be determined by the Board. The State's share of the recognized Planning Cost (RPC) may not exceed the RPC multiplied by the district's Grant Index as determined and provided by the Illinois State Board of Education. The district's share shall equal the balance of the RPC plus any services the district provides for State participation and requested by the district.

e) For State participation and requested by the district, Planning Assistance Grant Awards, local school districts must provide the district's share of the total Planning Project Cost by depositing same in the State Treasury to establish a local trust account pursuant to 71 Ill. Adm. Code 30.1 ~~eff=Rev=State=1989=ch=227=par=35-19a-11~~.

f) Supervision of grant disbursement and contractual obligations shall be the responsibility of the State.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

Section 10.130 Construction Grants

Prior to the award of a construction grant, school districts shall meet the following requirements:

- a) Program Statements must be submitted to the Board for proposed

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facilities and sites requiring Capital Assistance Program (CAP) funding. Program statements must conform to the CAP Guidelines for Program Statements as developed by the Board and which will address, but not be limited to, the following:

- 1) Project Rationale
 - 2) The Community
 - 3) Education Plan
 - a) Instruction method
 - b) Instruction method
 - c) Support plans
 - 4) Activity Areas
 - 5) General Building Considerations
 - 6) Site Analysis
 - 7) Spatial Relationships
 - 8) Spatial Relationships
 - 9) Cost Estimates and Funding Sources
 - 10) Time Schedule of Major Events
- b) Standards for School Site Selection and Approval
- 1) The local school board shall select the sites for all new projects subject to the determination of the Board that the proposed site meets all minimum engineering and construction standards for requirements.
 - 2) The Board shall approve a new site until the applicant district has informed the Board of the site's location, the local government unit within whose jurisdiction the proposed site lies and has obtained any necessary approval of the district's plans as they may affect or be affected by the plans and policies of the local government.

3) Equal Educational Opportunity

The proposed site must support legitimate efforts to eliminate and prevent segregation in schools because of race, religion, sex or national origin. The placement of the school must, at a minimum, be approved by the State Board of Education in this respect.

4) Suitability for Development and Construction

a) The site must be free of physical structures, topographical features, or other physical obstructions which would prevent or preclude necessary construction. The site must be free of any obstacles to safety or health, including, but not limited to, existing life, cause excessive delays in project completion, or cause costs to exceed the funds available. "Necessary construction" shall include but not necessarily be limited to: buildings, utility lines, storm water disposal arrangements and paving. The local district shall provide a report, acceptable to the Board, on soil conditions based on the removal of soil for testing. The cost to the local school district of the soil test and report of that test shall be considered as a credit to the local share if the

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recognized project cost if the site is approved and a grant award is made.

- b) The site must not be subject to existing or foreseeable, harmful or disruptive environmental hazards and nuisances. Such hazards and nuisances may include, but are not necessarily limited to: excessive dust, smoke, noise, odors, air pollutants, floods, ground water incursions, vibrations, explosions, and electrical discharges.

5) Availability of the Site

- a) The local district shall have a period of 150 days from the time of grant award to acquire title to the site, or a portion of the site, and to prepare the site for construction. The time of use and exclusion sufficient to carry out the purposes of the school. Such time period may be extended for 60 days by the Executive Director. Any further extension must be approved by the Board. Extensions will be granted in those cases in which there is a reasonable expectation that the district will be able to acquire the site within the period of the extension and the delay has been considered by a condition beyond the control of the district, such as a delay in acquiring a title commitment.

- b) A grant will not be awarded until the Board has had a reasonable opportunity to enter upon the site, inspect it in detail, and conduct whatever site tests are deemed necessary to establish the suitability of the site for school construction.

- c) The Board will not approve a site unless its development and use for the proposed school is in compliance with local zoning laws, or unless action has been taken to bring variation of same into compliance.

- d) When street vacations, utility relocations, or such action will be required prior to start of construction, the local district must present documentation that such actions will be approved by the responsible local governmental units before the Board will approve the site.

6) Site Use and Construction

- a) The proposed site must contain usable space sufficient in size and if regular utilization so as to accommodate the school's instructional program and any other activities and events the applicant school district plans to conduct on the site. The applicant may tailor its on-site program to fit the site proposed, but the Board will not approve a site that is insufficient to accommodate a program that is

- b) The school's on-site program shall be defined to include the school's instructional program and any other activities and events the applicant school district plans to conduct on the site. The applicant may tailor its on-site program to fit the site proposed, but the Board will not approve a site that is insufficient to accommodate a program that is

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standard for the district as a whole, nor will the Board approve a site that does not permit full compliance with the minimum area requirements set forth in Section 40.13(b)(1) of the State Board of Education's "Standards for Schools." The above are minimums for usable area. However, the Board of Education, in determining the adequacy of the site's space in terms of the number of students shall be based on the design capacity of the school building.

C) Space for Buildings

In addition to those portions of the site required for other purposes, there must be a portion or portions of the site that are of such size, shape and physical quality that they are sufficient to accommodate the buildings that would be required for the maximum design enrollment of the school. This "building reserve" must be at least sufficient in ground area to provide for gross floor space, as set forth in Section 40.13(b)(1)(D) of the State Board of Education's "Standards for Schools." The portion of the site that is the "building reserve" must be at least sufficient in ground area to provide for one-half the gross floor space.

D) Non-Building Space

1) At a minimum, the site must provide the following amounts of space in addition to that reserved for buildings to meet "Special Requirements" as defined in Section 40.13(b)(1)(E) following of a shape, character and location that they can readily be improved to provide areas suitable for physical education and recreation, any planned accommodation of vehicles, and the accommodation of outdoor access, circulation and evacuation:

Minimum Usable Area for Non-Building Needs

School Grades	Sq. Ft.	Acres for Sample Enrollments
	Student	200 300 1000 2000 3000
K-6	11.3	.52 1.30 2.59
7-9	14.3	1.64 3.28 6.57
10-12	19.5	4.18 8.95 13.43

ii) For additions to existing schools, the addition should not be planned in existing open space and/or playground area of existing schools, unless it can be demonstrated that the construction of the addition will not curtail the amount of space necessary to fulfill the program and provide adequate recreational space.

iii) In those instances where a combination of the above

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minimum area requirements results in a total minimum requirement less than 1.5 acres, 1.5 acres shall be provided to meet the minimum acceptable acreage.

E)

Special Requirements
The above are minimums for usable area. However, the Board of Education, in determining the adequacy of the site's sufficient size to provide for the following needs as indicated:

i) Space for Outdoor On-Site Program

There must be a portion or portions of the site, in addition to those reserved for other purposes, that are of such size, shape and physical character that they can readily be improved to accommodate the use and function of the outdoor portions of the on-site school program. The site must permit the safe conduct of a physical education program that meets physical education standards, and that provides for the physical capacities of students of various types and amounts of activities in the physical education program, and the daily and yearly time schedule of the school.

ii) Accommodation of Vehicles

There must be portions of the site, in addition to those necessary for other purposes, that are of such size, shape, physical quality and location that they can provide spaces for vehicles as indicated above without contravening local zoning ordinances; safe loading and unloading areas for school buses; where areas are necessary to the safety of students from street traffic; secure and convenient parking spaces for school buses, school vehicles, and other vehicles; distribution of buses, safe accommodation of delivery and service vehicles involved in serving the school.

iii) Access, Circulation, Evacuation Assembly

There must be portions of the site of such size, shape, physical quality and location that they can be improved to provide: unobstructed exterior avenues of escape from the exits of all proposed buildings and the areas adjacent to buildings in the event that evacuation is necessary; safe and convenient circulation by students between and among buildings; and outdoor activity areas of the site; safe accommodation for the unsupervised outdoor assembly of students and their parents before school, after school, and during school assemblies; safe accommodation of outdoor assemblies of students and spectators occasioned by school-sponsored spectator events to be held on the site.

F) Variance of Site Size and Configuration

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Gross sq. footage per additional student beyond 400 students	per 100
New High School	109-12
Gross sq. footage per student	140
Gross sq. footage per additional student beyond 600 students	110

- C) For new additions to existing buildings total projects should be planned for not less than the gross space allowance for 150 students. Multiple sites may be considered, but for no less than 50 students at any one site. Space standards for additions should not exceed those for new buildings as framed in subsection 11(B) above. Unless a variance is granted by the Board based on evidence that the proposed project is unique and that the use of the proposed space standards would equal those set forth in subsection 11(B) above for additional students beyond the base number of 240 students for elementary, 400 students for Junior High and 600 for new high schools. Applications from school districts over 500,000 inhabitants should be limited to those projects planned for new construction or large additions (over 100 pupils) for the project year.

- D) The recognized project cost for remodeling/ rehabilitation projects must be developed on an individual basis with space per student not to exceed standards set for construction of building additions as set forth in subsections 11(B) and (C) above, and unit costs not to exceed standards for new construction as established from time to time by the Board.

- E) Projects shall be assigned from time to time by the Board.
- All recognized types of space shall be included for restructuring schools.
 - An average space-per-student can be derived from space type used by each elementary, Junior High and High school.
 - Space needs for additions to existing schools may be less than needs for restructuring schools.
 - A building efficiency (net assignable space to total space) of 6% is the acceptable minimum.
 - Unit costs (sq.ft.) used for determining the recognized project cost, including A-E design fees, building construction to the five foot line, fixed equipment, associated legal fees and a contingency shall be no greater than those unit costs established

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from time to time by the Board. Said unit costs are determined as needed and are established by resolution of the Board. In establishing unit costs the Board members shall be guided by current costs within the District and shall be guided by the goal of receiving fair value for public funds expended.

- F) Limits on Capital Participation and Site Cost

Districts will not receive Board assistance or credit for acreages beyond the following maximums:

- Elementary - 5 acres plus 1 acre per 100 students,
- Junior High - 10 acres plus 1 acre per 100 students, and
- High School - 30 acres plus 1 acre per 100 students.

- G) The State and local share of the recognized project cost shall be computed by multiplying the recognized project cost by the grant index. Local districts must provide the district share of the recognized project cost through bond referendum or other means within 90 days of the grant award by the State. Such period may be extended by the Executive Director of the State Board of Education. The State Board will demonstrate that appropriate steps have been taken to obtain the district's share of the recognized project cost and that in additional 30 days is necessary to complete the process. Local school districts are urged to begin referendum proceedings upon grant entitlement by the State Board of Education.

- H) The district share of the recognized project cost shall be placed in a local trust account pursuant to 71 Ill. Adm. Code 20.

- I) School districts may add to a project cost beyond the recognized project cost with local district funds. Funds for such project supplements must be deposited in invoiceable trust accounts.

- J) The State and local share of the recognized project cost shall be computed by multiplying the recognized project cost by the grant index. The State and local share of the recognized project cost shall be applied to the bids to design a project, by trade, will be applied to the bids to determine the portion representing the recognized and supplemental project cost. The actual recognized project cost as derived from the above bidding will be multiplied by the grant index to determine the final dollar amounts to be paid by the State and local school districts. The supplemental project cost will be paid by the local school district as specified in subsection 11(F) above. Any savings realized in bidding shall be equitably distributed between the State and the local school district.

(Source: Amended at 20 ill. Reg. _____, effective _____.)

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Increases for the level of performance.

In Section 310, Appendices C and D, the Medical Administrator Rates and the Merit Compensation System Salary Schedule, the salary ranges for those employees subject to the Merit Compensation section of the Pay Plan are being increased by % for Fiscal Year 1997. The "Merit Pay Zone Limit" is being eliminated.

In Section 310, Appendix G, Broad-Band Pay Range Classes Salary Schedule, the salary ranges are being revised by % for Fiscal Year 1997.

- 6) Will this proposed rule replace an emergency rule currently in effect?
Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain any incorporations by reference? No

- 9) Are there any proposed amendments pending to this Part? Yes

Section Number	Proposed Action	Ill. Reg. Citation
310.330	Amended	20 Ill. Reg. 5.05 (April 12, 1996)

- 10) Statement of Statewide Objectives: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Mr. Michael Murphy
Director of Central Management Services
Division of Technical Services
504 William G. Stevenson Building
Springfield, Illinois 62706
Telephone: (217) 782-5601

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None. The Department of Central Management Services' Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.

B) Reporting, bookkeeping or other procedures required for

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Compliance: None

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the proposed amendment(s) begins on page

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NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Boiler and Pressure Vessel Safety2) Code Citation: 41 Ill. Adm. Code 1203) Section Numbers: Proposed Action:

120.10 Amendment

120.15 New Section

120.20 Amendment

120.1000 Amendment

120.1010 Amendment

120.1030 Amendment

120.1041 Amendment

4) Safety Authority: Implementing the Boiler and Pressure Vessel Safety Act (130 ILCS 75) and authorized by Sections 2 and 2.1 of the Boiler and Pressure Vessel Safety Act (130 ILCS 75/2 and 75/2.1).5) A Complete Description of the Subjects and Issues Involved: The amendment establishes "fast-track" changes. It also references the new requirements for boiler repairs and changes terminology.6) Will this rulemaking replace any emergency rulemaking currently in effect?
No7) Does this rulemaking contain an automatic repeal date? No8) Does this rulemaking contain incorporations by reference? No9) Are there any other proposed rulemakings pending on this Part? No10) Statement of Statewide Policy Objectives: These amendments are needed to revise the Boiler and Pressure Vessel Safety Act. The Board of Boiler and Pressure Vessel Rules is charged with the responsibility of setting the standards and to implement a program for licensing of repair firms.11) Time, Place and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Interested parties may submit written comments within 45 days after publication to:

John Pavlou, Chief Counsel
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield, IL 62703-4259
(217) 785-1031

12) Initial Regulatory Flexibility Analysis:A) Types of small businesses, small municipalities and not-for-profit

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1) Corporations affected: Owners and operators of boilers and pressure vessels.2) Reporting, bookkeeping or other procedures required for compliance:
No additional requirements.3) Types of professional skills necessary for compliance: Same as under current rules.13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because these rules are required in response to the passage of SB 1143 which requires the Board to establish fees by January 1, 1997, which had formerly been set by statute.

The full text of the Proposed Amendment begins on the next page:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENT

TITLE 41: FIRE PROTECTION
CHAPTER 1: STATE FIRE MARSHAL

PART 120

BOILER AND PRESSURE VESSEL
SAFETY

SUBPART A: DEFINITIONS AND AMENDMENT

Section	
120.4	Forward (Repealed)
120.7	Kindly Observe the following Briefs and Avoid Unnecessary Inconvenience (Repealed)
120.10	Definitions
120.11	Incorporation of National Standards
120.15	Fees
120.20	Administration
120.30	Inspectors, Examinations, Certificate of Competency and Commission
120.41	Special Inspector Trainee (Repealed)

SUBPART B: CONSTRUCTION, INSTALLATION, INSPECTION, MAINTENANCE, AND USE

Section	
120.100	New Installations of Boilers, Miniature Boilers, Heating Boilers and Hot Water Supply Boilers
120.105	Boiler Exemptions
120.200	New Installations of Pressure Vessels
120.205	Pressure Vessel Exemptions
120.300	Existing Installations of Power Boilers
120.400	Existing Installations of Miniature Boilers (Repealed)
120.500	Existing Installations of Heating Boilers and Hot Water Supply Boilers (Repealed)
120.600	Existing Installation of Pressure Vessels
120.700	General Requirements for All Boilers and Pressure Vessels (Repealed)
120.800	Nuclear Power Plant Components (Repealed)
120.900	Flame Spread Requirements and Incorporated Standards (Repealed)

SUBPART C: REPAIR AND ALTERATION

Section	
120.1000	Repairs and Alterations to Boilers and Pressure Vessels by Welding
120.1010	Authorization to Repair Boilers and Pressure Vessels
120.1020	Issuance and Renewal of the Certificate
120.1030	Changes to Certificates of Authorization
120.1040	Quality Control Requirements
120.1041	Repair and Alteration Requirements

SUBPART D: STATE SPECIALS

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Procedure for the Issuance of State's Special Permits
TITLE 41: FIRE PROTECTION
CHAPTER 1: STATE FIRE MARSHAL

SUBPART E: REPAIR OF SAFETY AND SAFETY RELIEF VALVES

Section	
120.1100	Procedure for the Issuance of State's Special Permits
120.1200	Authorization for Repair of Safety & Safety Relief Valves
120.1210	Authorization to Repair ASME and National Board Stamped Safety and Safety Relief Valves
120.1220	Issuance and Renewal of the Certificate
120.1240	Changes to Certificates of Authorization
120.1250	Repairs to Safety and Safety Relief Valves
120.1260	Quality Control System
120.1270	Nameplates
120.1275	Field Repair
120.1280	Performance Testing of Repaired Valves
120.1285	Training of Valve Repair Personnel
120.1290	ASME "W", "UW" or National Board "W" Certificate Holders

SUBPART F: OWNER-USER QUALITY CONTROL REQUIREMENTS

Section	
120.1300	Introduction
120.1301	Authority and Responsibility
120.1305	Organization
120.1310	Inservice Inspection Program
120.1320	Drawings, Design Calculations, and Specification Control
120.1325	Material Control
120.1330	Examination and Inspection Program
120.1335	Correction of Nonconformities
120.1340	Welding
120.1345	Nondestructive Examination
120.1350	Recordation of Measurement and Test Equipment
120.1355	Recordation of Measurement and Test Equipment
120.1360	Inspectors

APPENDIX A Examples of Repairs and Alterations (Repealed)

APPENDIX B Record of Welded Repair (Repealed)

AUTHORITY: Implementing the Boiler and Pressure Vessel Safety Act (410 ILCS 75) and authorized by Sections 2 and 2.1 of the Boiler and Pressure Vessel Safety Act (410 ILCS 75.2 and 2.1).

SOURCE: Boiler and Pressure Vessel Safety Act Rules and Regulations adopted at 4 ill. Reg. 7, p. 1126, effective January 11, 1980; modified at 5 ill. Reg. 4, p. 9877, amended at 11 ill. Reg. 925, effective July 17, 1983; amended at 12 ill. Reg. 910, effective July 17, 1985; amended at 13 ill. Reg. 957, effective January 1, 1989; amended at 16 ill. Reg. 580, effective July 1, 1991; amended

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at 17 Ill. Reg. 14917, effective September 1, 1993; amended at 19 Ill. Reg. 11904, effective August 15, 1995; amended at 20 Ill. Reg. 9540, effective July 3, 1996; amended at 20 Ill. Reg. _____, effective _____.

SUPPORT B: DEFINITIONS AND ADMINISTRATION

Section 120.10 Definitions

API 510 means the Maintenance, Inspection, Repair, and Alteration of Pressure Vessels as published by the American Petroleum Institute.

ASME Code means the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers with such revisions, amendments and interpretations thereof as are made, approved and adopted by the Council of the Society and approved and adopted by the Board. Copies of the Code may be obtained from said Society at 345 E. 47th Street, New York, New York 10017.

Act or the Act means the Boiler and Pressure Vessel Safety Act (1975-1987-1989-1991-1993-1995-1997-1999-2001-2003-2005-2007-2009-2011-2013-2015-2017-2019-2021-2023-2025-2027-2029-2031-2033-2035-2037-2039-2041-2043-2045-2047-2049-2051-2053-2055-2057-2059-2061-2063-2065-2067-2069-2071-2073-2075-2077-2079-2081-2083-2085-2087-2089-2091-2093-2095-2097-2099-2101-2103-2105-2107-2109-2111-2113-2115-2117-2119-2121-2123-2125-2127-2129-2131-2133-2135-2137-2139-2141-2143-2145-2147-2149-2151-2153-2155-2157-2159-2161-2163-2165-2167-2169-2171-2173-2175-2177-2179-2181-2183-2185-2187-2189-2191-2193-2195-2197-2199-2201-2203-2205-2207-2209-2211-2213-2215-2217-2219-2221-2223-2225-2227-2229-2231-2233-2235-2237-2239-2241-2243-2245-2247-2249-2251-2253-2255-2257-2259-2261-2263-2265-2267-2269-2271-2273-2275-2277-2279-2281-2283-2285-2287-2289-2291-2293-2295-2297-2299-2301-2303-2305-2307-2309-2311-2313-2315-2317-2319-2321-2323-2325-2327-2329-2331-2333-2335-2337-2339-2341-2343-2345-2347-2349-2351-2353-2355-2357-2359-2361-2363-2365-2367-2369-2371-2373-2375-2377-2379-2381-2383-2385-2387-2389-2391-2393-2395-2397-2399-2401-2403-2405-2407-2409-2411-2413-2415-2417-2419-2421-2423-2425-2427-2429-2431-2433-2435-2437-2439-2441-2443-2445-2447-2449-2451-2453-2455-2457-2459-2461-2463-2465-2467-2469-2471-2473-2475-2477-2479-2481-2483-2485-2487-2489-2491-2493-2495-2497-2499-2501-2503-2505-2507-2509-2511-2513-2515-2517-2519-2521-2523-2525-2527-2529-2531-2533-2535-2537-2539-2541-2543-2545-2547-2549-2551-2553-2555-2557-2559-2561-2563-2565-2567-2569-2571-2573-2575-2577-2579-2581-2583-2585-2587-2589-2591-2593-2595-2597-2599-2601-2603-2605-2607-2609-2611-2613-2615-2617-2619-2621-2623-2625-2627-2629-2631-2633-2635-2637-2639-2641-2643-2645-2647-2649-2651-2653-2655-2657-2659-2661-2663-2665-2667-2669-2671-2673-2675-2677-2679-2681-2683-2685-2687-2689-2691-2693-2695-2697-2699-2701-2703-2705-2707-2709-2711-2713-2715-2717-2719-2721-2723-2725-2727-2729-2731-2733-2735-2737-2739-2741-2743-2745-2747-2749-2751-2753-2755-2757-2759-2761-2763-2765-2767-2769-2771-2773-2775-2777-2779-2781-2783-2785-2787-2789-2791-2793-2795-2797-2799-2801-2803-2805-2807-2809-2811-2813-2815-2817-2819-2821-2823-2825-2827-2829-2831-2833-2835-2837-2839-2841-2843-2845-2847-2849-2851-2853-2855-2857-2859-2861-2863-2865-2867-2869-2871-2873-2875-2877-2879-2881-2883-2885-2887-2889-2891-2893-2895-2897-2899-2901-2903-2905-2907-2909-2911-2913-2915-2917-2919-2921-2923-2925-2927-2929-2931-2933-2935-2937-2939-2941-2943-2945-2947-2949-2951-2953-2955-2957-2959-2961-2963-2965-2967-2969-2971-2973-2975-2977-2979-2981-2983-2985-2987-2989-2991-2993-2995-2997-2999-3001-3003-3005-3007-3009-3011-3013-3015-3017-3019-3021-3023-3025-3027-3029-3031-3033-3035-3037-3039-3041-3043-3045-3047-3049-3051-3053-3055-3057-3059-3061-3063-3065-3067-3069-3071-3073-3075-3077-3079-3081-3083-3085-3087-3089-3091-3093-3095-3097-3099-3101-3103-3105-3107-3109-3111-3113-3115-3117-3119-3121-3123-3125-3127-3129-3131-3133-3135-3137-3139-3141-3143-3145-3147-3149-3151-3153-3155-3157-3159-3161-3163-3165-3167-3169-3171-3173-3175-3177-3179-3181-3183-3185-3187-3189-3191-3193-3195-3197-3199-3201-3203-3205-3207-3209-3211-3213-3215-3217-3219-3221-3223-3225-3227-3229-3231-3233-3235-3237-3239-3241-3243-3245-3247-3249-3251-3253-3255-3257-3259-3261-3263-3265-3267-3269-3271-3273-3275-3277-3279-3281-3283-3285-3287-3289-3291-3293-3295-3297-3299-3301-3303-3305-3307-3309-3311-3313-3315-3317-3319-3321-3323-3325-3327-3329-3331-3333-3335-3337-3339-3341-3343-3345-3347-3349-3351-3353-3355-3357-3359-3361-3363-3365-3367-3369-3371-3373-3375-3377-3379-3381-3383-3385-3387-3389-3391-3393-3395-3397-3399-3401-3403-3405-3407-3409-3411-3413-3415-3417-3419-3421-3423-3425-3427-3429-3431-3433-3435-3437-3439-3441-3443-3445-3447-3449-3451-3453-3455-3457-3459-3461-3463-3465-3467-3469-3471-3473-3475-3477-3479-3481-3483-3485-3487-3489-3491-3493-3495-3497-3499-3501-3503-3505-3507-3509-3511-3513-3515-3517-3519-3521-3523-3525-3527-3529-3531-3533-3535-3537-3539-3541-3543-3545-3547-3549-3551-3553-3555-3557-3559-3561-3563-3565-3567-3569-3571-3573-3575-3577-3579-3581-3583-3585-3587-3589-3591-3593-3595-3597-3599-3601-3603-3605-3607-3609-3611-3613-3615-3617-3619-3621-3623-3625-3627-3629-3631-3633-3635-3637-3639-3641-3643-3645-3647-3649-3651-3653-3655-3657-3659-3661-3663-3665-3667-3669-3671-3673-3675-3677-3679-3681-3683-3685-3687-3689-3691-3693-3695-3697-3699-3701-3703-3705-3707-3709-3711-3713-3715-3717-3719-3721-3723-3725-3727-3729-3731-3733-3735-3737-3739-3741-3743-3745-3747-3749-3751-3753-3755-3757-3759-3761-3763-3765-3767-3769-3771-3773-3775-3777-3779-3781-3783-3785-3787-3789-3791-3793-3795-3797-3799-3801-3803-3805-3807-3809-3811-3813-3815-3817-3819-3821-3823-3825-3827-3829-3831-3833-3835-3837-3839-3841-3843-3845-3847-3849-3851-3853-3855-3857-3859-3861-3863-3865-3867-3869-3871-3873-3875-3877-3879-3881-3883-3885-3887-3889-3891-3893-3895-3897-3899-3901-3903-3905-3907-3909-3911-3913-3915-3917-3919-3921-3923-3925-3927-3929-3931-3933-3935-3937-3939-3941-3943-3945-3947-3949-3951-3953-3955-3957-3959-3961-3963-3965-3967-3969-3971-3973-3975-3977-3979-3981-3983-3985-3987-3989-3991-3993-3995-3997-3999-4001-4003-4005-4007-4009-4011-4013-4015-4017-4019-4021-4023-4025-4027-4029-4031-4033-4035-4037-4039-4041-4043-4045-4047-4049-4051-4053-4055-4057-4059-4061-4063-4065-4067-4069-4071-4073-4075-4077-4079-4081-4083-4085-4087-4089-4091-4093-4095-4097-4099-4101-4103-4105-4107-4109-4111-4113-4115-4117-4119-4121-4123-4125-4127-4129-4131-4133-4135-4137-4139-4141-4143-4145-4147-4149-4151-4153-4155-4157-4159-4161-4163-4165-4167-4169-4171-4173-4175-4177-4179-4181-4183-4185-4187-4189-4191-4193-4195-4197-4199-4201-4203-4205-4207-4209-4211-4213-4215-4217-4219-4221-4223-4225-4227-4229-4231-4233-4235-4237-4239-4241-4243-4245-4247-4249-4251-4253-4255-4257-4259-4261-4263-4265-4267-4269-4271-4273-4275-4277-4279-4281-4283-4285-4287-4289-4291-4293-4295-4297-4299-4301-4303-4305-4307-4309-4311-4313-4315-4317-4319-4321-4323-4325-4327-4329-4331-4333-4335-4337-4339-4341-4343-4345-4347-4349-4351-4353-4355-4357-4359-4361-4363-4365-4367-4369-4371-4373-4375-4377-4379-4381-4383-4385-4387-4389-4391-4393-4395-4397-4399-4401-4403-4405-4407-4409-4411-4413-4415-4417-4419-4421-4423-4425-4427-4429-4431-4433-4435-4437-4439-4441-4443-4445-4447-4449-4451-4453-4455-4457-4459-4461-4463-4465-4467-4469-4471-4473-4475-4477-4479-4481-4483-4485-4487-4489-4491-4493-4495-4497-4499-4501-4503-4505-4507-4509-4511-4513-4515-4517-4519-4521-4523-4525-4527-4529-4531-4533-4535-4537-4539-4541-4543-4545-4547-4549-4551-4553-4555-4557-4559-4561-4563-4565-4567-4569-4571-4573-4575-4577-4579-4581-4583-4585-4587-4589-4591-4593-4595-4597-4599-4601-4603-4605-4607-4609-4611-4613-4615-4617-4619-4621-4623-4625-4627-4629-4631-4633-4635-4637-4639-4641-4643-4645-4647-4649-4651-4653-4655-4657-4659-4661-4663-4665-4667-4669-4671-4673-4675-4677-4679-4681-4683-4685-4687-4689-4691-4693-4695-4697-4699-4701-4703-4705-4707-4709-4711-4713-4715-4717-4719-4721-4723-4725-4727-4729-4731-4733-4735-4737-4739-4741-4743-4745-4747-4749-4751-4753-4755-4757-4759-4761-4763-4765-4767-4769-4771-4773-4775-4777-4779-4781-4783-4785-4787-4789-4791-4793-4795-4797-4799-4801-4803-4805-4807-4809-4811-4813-4815-4817-4819-4821-4823-4825-4827-4829-4831-4833-4835-4837-4839-4841-4843-4845-4847-4849-4851-4853-4855-4857-4859-4861-4863-4865-4867-4869-4871-4873-4875-4877-4879-4881-4883-4885-4887-4889-4891-4893-4895-4897-4899-4901-4903-4905-4907-4909-4911-4913-4915-4917-4919-4921-4923-4925-4927-4929-4931-4933-4935-4937-4939-4941-4943-4945-4947-4949-4951-4953-4955-4957-4959-4961-4963-4965-4967-4969-4971-4973-4975-4977-4979-4981-4983-4985-4987-4989-4991-4993-4995-4997-4999-5001-5003-5005-5007-5009-5011-5013-5015-5017-5019-5021-5023-5025-5027-5029-5031-5033-5035-5037-5039-5041-5043-5045-5047-5049-5051-5053-5055-5057-5059-5061-5063-5065-5067-5069-5071-5073-5075-5077-5079-5081-5083-5085-5087-5089-5091-5093-5095-5097-5099-5101-5103-5105-5107-5109-5111-5113-5115-5117-5119-5121-5123-5125-5127-5129-5131-5133-5135-5137-5139-5141-5143-5145-5147-5149-5151-5153-5155-5157-5159-5161-5163-5165-5167-5169-5171-5173-5175-5177-5179-5181-5183-5185-5187-5189-5191-5193-5195-5197-5199-5201-5203-5205-5207-5209-5211-5213-5215-5217-5219-5221-5223-5225-5227-5229-5231-5233-5235-5237-5239-5241-5243-5245-5247-5249-5251-5253-5255-5257-5259-5261-5263-5265-5267-5269-5271-5273-5275-5277-5279-5281-5283-5285-5287-5289-5291-5293-5295-5297-5299-5301-5303-5305-5307-5309-5311-5313-5315-5317-5319-5321-5323-5325-5327-5329-5331-5333-5335-5337-5339-5341-5343-5345-5347-5349-5351-5353-5355-5357-5359-5361-5363-5365-5367-5369-5371-5373-5375-5377-5379-5381-5383-5385-5387-5389-5391-5393-5395-5397-5399-5401-5403-5405-5407-5409-5411-5413-5415-5417-5419-5421-5423-5425-5427-5429-5431-5433-5435-5437-5439-5441-5443-5445-5447-5449-5451-5453-5455-5457-5459-5461-5463-5465-5467-5469-5471-5473-5475-5477-5479-5481-5483-5485-5487-5489-5491-5493-5495-5497-5499-5501-5503-5505-5507-5509-5511-5513-5515-5517-5519-5521-5523-5525-5527-5529-5531-5533-5535-5537-5539-5541-5543-5545-5547-5549-5551-5553-5555-5557-5559-5561-5563-5565-5567-5569-5571-5573-5575-5577-5579-5581-5583-5585-5587-5589-5591-5593-5595-5597-5599-5601-5603-5605-5607-5609-5611-5613-5615-5617-5619-5621-5623-5625-5627-5629-5631-5633-5635-5637-5639-5641-5643-5645-5647-5649-5651-5653-5655-5657-5659-5661-5663-5665-5667-5669-5671-5673-5675-5677-5679-5681-5683-5685-5687-5689-5691-5693-5695-5697-5699-5701-5703-5705-5707-5709-5711-5713-5715-5717-5719-5721-5723-5725-5727-5729-5731-5733-5735-5737-5739-5741-5743-5745-5747-5749-5751-5753-5755-5757-5759-5761-5763-5765-5767-5769-5771-5773-5775-5777-5779-5781-5783-5785-5787-5789-5791-5793-5795-5797-5799-5801-5803-5805-5807-5809-5811-5813-5815-5817-5819-5821-5823-5825-5827-5829-5831-5833-5835-5837-5839-5841-5843-5845-5847-5849-5851-5853-5855-5857-5859-5861-5863-5865-5867-5869-5871-5873-5875-5877-5879-5881-5883-5885-5887-5889-5891-5893-5895-5897-5899-5901-5903-5905-5907-5909-5911-5913-5915-5917-5919-5921-5923-5925-5927-5929-5931-5933-5935-5937-5939-5941-5943-5945-5947-5949-5951-5953-5955-5957-5959-5961-5963-5965-5967-5969-5971-5973-5975-5977-5979-5981-5983-5985-5987-5989-5991-5993-5995-5997-5999-6001-6003-6005-6007-6009-6011-6013-6015-6017-6019-6021-6023-6025-6027-6029-6031-6033-6035-6037-6039-6041-6043-6045-6047-6049-6051-6053-6055-6057-6059-6061-6063-6065-6067-6069-6071-6073-6075-6077-6079-6081-6083-6085-6087-6089-6091-6093-6095-6097-6099-6101-6103-6105-6107-6109-6111-6113-6115-6117-6119-6121-6123-6125-6127-6129-6131-6133-6135-6137-6139-6141-6143-6145-6147-6149-6151-6153-6155-6157-6159-6161-6163-6165-6167-6169-6171-6173-6175-6177-6179-6181-6183-6185-6187-6189-6191-6193-6195-6197-6199-6201-6203-6205-6207-6209-6211-6213-6215-6217-6219-6221-6223-6225-6227-6229-6231-6233-6235-6237-6239-6241-6243-6245-6247-6249-6251-6253-6255-6257-6259-6261-6263-6265-6267-6269-6271-6273-6275-6277-6279-6281-6283-6285-6287-6289-6291-6293-6295-6297-6299-6301-6303-6305-6307-6309-6311-6313-6315-6317-6319-6321-6323-6325-6327-6329-6331-6333-6335-6337-6339-6341-6343-6345-6347-6349-6351-6353-6355-6357-6359-6361-6363-6365-6367-6369-6371-6373-6375-6377-6379-6381-6383-6385-6387-6389-6391-6393-6395-6397-6399-6401-6403-6405-6407-6409-6411-6413-6415-6417-6419-6421-6423-6425-6427-6429-6431-6433-6435-6437-6439-6441-6443-6445-6447-6449-6451-6453-6455-6457-6459-6461-6463-6465-6467-6469-6471-6473-6475-6477-6479-6481-6483-6485-6487-6489-6491-6493-6495-6497-6499-6501-6503-6505-6507-6509-6511-6513-6515-6517-6519-6521-6523-6525-6527-6529-6531-6533-6535-6537-6539-6541-6543-6545-6547-6549-6551-6553-6555-6557-6559-6561-6563-6565-6567-6569-6571-6573-6575-6577-6579-6581-6583-6585-6587-6589-6591-6593-6595-6597-6599-6601-6603-6605-6607-6609-6611-6613-6615-6617-6619-6621-6623-6625-6627-6629-6631-6633-6635-6637-6639-6641-6643-6645-6647-6649-6651-6653-6655-6657-6659-6661-6663-6665-6667-6669-6671-6673-6675-

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENT

Hot water supply boiler means a boiler (including fired storage water heater) furnishing hot water to be used externally to itself at pressures not exceeding 160 psig and/or temperatures not exceeding 250 F. at or near the boiler outlet except those exempted pursuant to the Boiler and Pressure Vessel Safety Act and this Part.

Lined Portable Water Heater shall mean a water heater with a corrosion resistant lining, used to supply potable hot water.

Low Pressure Boiler means a steam boiler operated at pressures not exceeding 15 psig and/or temperatures not exceeding 250 degrees Fahrenheit.

High Pressure Boiler means a boiler where steam is generated at a pressure in excess of 15 psig or a water boiler operated in excess of 160 psig and/or temperatures in excess of 250 degrees Fahrenheit.

Electric Boiler means a boiler in which the source of heat is electricity.

Portable Boiler means an internally fired boiler which is primarily intended for temporary location and the construction and usage permits it to be readily moved from one location to another.

Certificate of Competency means a certificate issued to a person who has passed the examination prescribed by the Board.

Certificate of Registration means a certificate issued by the Office pursuant to the Boiler and Pressure Vessel Repair Regulation Act.

Certificate Inspection means an inspection, the report of which is used by the Chief Inspector as justification for issuing, renewing or revoking the inspection certificate. The Certificate Inspection shall be an intermediate inspection, if required; otherwise, it shall be as complete an inspection as possible.

Internal Inspection means as complete an examination as can reasonably be made of the internal and external surfaces of a boiler or pressure vessel while it is shut down and manhole plates, handhole plates or other inspection opening closures are removed as required by the Inspector.

External Inspection means an inspection made when a boiler or pressure vessel is in operation, if possible.

Commission, National Board means the commission issued by the National Board to a holder of a Certificate of Competency who desires to make

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENT

shop inspections or field inspections in accordance with the National Board Bylaws and whose employer submits the inspector's application to the National Board for such commission.

Condensed Boiler or Pressure Vessel means a boiler or pressure vessel that has been inspected and declared unsafe or disqualified by legal requirements, by the Chief or Deputy Inspector.

Division means the Division of Boiler & Pressure Vessel Safety.

Engineer means a registered professional engineer registered in accordance with the Illinois Professional Engineering Act (Public Act 1971-347) or a duly-licensed engineer (225 ILCS 325) or a person who graduated from an accredited college or university and either:

holds a mechanical engineering degree or has five years experience in a related field (e.g., civil engineering, electrical engineering, chemical engineering, etc.); or holds a degree in mechanical engineering, industrial engineering, or engineering, maintenance, engineering, protective engineering or construction, maintenance, repair or operation of high pressure boilers and pressure vessels.

Existing installation means and includes:

Any boiler installed and placed in operation within the State of Illinois before May 1, 1953.

Any hot water supply boiler installed and placed in operation within the State of Illinois on or before July 9, 1957.

Any pressure vessel installed and placed in operation within the State of Illinois on or before December 31, 1976.

Inspection Certificate means a certification issued by the Chief Inspector for the operation of a boiler or pressure vessel as required by the Act.

Inspector means the Chief Inspector or Deputy Inspector or Special Inspector or Owner-User Inspector.

Chief Inspector means the Chief Boiler and Pressure Vessel Inspector employed under the Act.

Deputy Inspector means any inspector employed under the provisions of the Act.

Special Inspector means an inspector holding an Illinois Certificate of Competency and who is regularly employed by an

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENT

insurance company authorized to write boiler and pressure vessel insurance in this State whose license expires on expiration of the boiler and pressure vessel inspection in this State.

Special Inspector Trainees are those inspectors described in Section 120.30.

Owner-User Inspector means an inspector described in Section 120.1360 continuously employed as an inspector by an Owner-User Inspection Agency.

Jurisdiction means a state, commonwealth, county or municipality of the United States or a province of Canada which has adopted one or more Sections of the ASME Code and maintains a duly constituted Department, Bureau, or Division for the purpose of enforcement of such Code. In Illinois the Division of Boiler and Pressure Vessel Safety is the jurisdiction except for the City of Chicago.

National Board means the National Board of Boiler and Pressure Vessel Inspectors, 1055 Tripper Avenue, Columbus, Ohio 43260, whose membership is composed of the Chief Inspectors of jurisdictions who are charged with the enforcement of the provisions of the ASME Code.

National Board Inspection Code means the Manual for Boiler and Pressure Vessel Inspectors published by the National Board. Copies of the Code may be obtained from the National Board.

New Boiler Installations means and includes all boilers constructed, installed and placed in operation within the State of Illinois after May 1, 1951, and all hot water supply boilers installed and placed in operation after July 9, 1957.

New Pressure Vessel Installations means and includes any pressure vessel installed and placed in operation within the State of Illinois after December 31, 1976.

Non-Standard Boiler or Pressure Vessel means a boiler or pressure vessel that does not bear the ASME Stamp or the APT-ASME Stamp.

Office means the Office of the State Fire Marshal.

Owner or User means any person, firm or corporation legally responsible for the safe operation of any boiler or pressure vessel within the State.

Owner-User means an owner and user qualified under Section 15 of the Act.

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Place of Public Assembly means a building or specific area, including outdoor areas, in which persons assemble for civic, educational, religious, social or recreational purposes or which is provided by a common carrier for passengers awaiting transportation or in which persons are housed to receive medical, charitable or other care or treatment, or are held or detained for public, civic or correctional purposes.

Pressure Vessel means a vessel in which pressure is obtained from an external source, or by the application of heat from an indirect source or from a direct source other than those boilers as defined above.

PSIG means pounds per square inch gauge.

Reinstalled Boiler or Pressure Vessel means a boiler or pressure vessel removed from its original setting and reinstalled at the same location within the State of Illinois or at a new location without change of ownership.

Relief Valve means an automatic pressure relieving device actuated by the static pressure upstream of the valve and opened automatically to increase the pressure over the setting pressure. It is used primarily for liquid service.

Repair means work necessary to return a boiler or pressure vessel to a safe operating condition.

Rating means a change in the increase of the maximum allowable working pressure or temperature of a boiler or pressure vessel regardless of whether or not physical work is performed on the boiler or pressure vessel. Rating shall be considered an alteration.

Safety Relief Valve means an automatic pressure relieving device suitable for use as a safety or relief valve, depending on application.

Safety Valve means an automatic pressure relieving device actuated by the static pressure upstream of the valve and characterized by full opening pop action. It is used for gas or vapor service.

Secondhand Boiler or Pressure Vessel means a boiler or pressure vessel which has changed both location and ownership since primary use.

Standard Boiler or Pressure Vessel means a boiler or pressure vessel which bears the ASME Code Symbol.

State Special means a pressure vessel of special construction that may not be constructed in accordance with the ASME Code. See Subpart 2.

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Section 120.110 of this Part, for the procedures for granting a State Special.

Underwriters Laboratories (U.L.) means a non-profit independent organization testing for public safety. It maintains and publishes standards for testing of materials and products and makes recommendations to determine their relationship to life, fire and casualty hazards.

Welding, Arc Welding means a group of welding processes wherein coalescence is produced by heating with an arc or arcs, with or without the application of pressure, and with or without the use of filler metal.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 120.15 Fees

As authorized by the Boiler and Pressure Vessel Safety Act, the Board hereby establishes the following fees to be collected for services rendered by the Division:

Examinations.....\$25

Commissions

New issuance.....\$20

Renewal.....\$10

Certificate of Inspection.....\$20

Inspections

Internal or External

Boiler Inspection

Boilers over 200 sq. ft. of heating surface or less.....\$30

Boilers over 200 sq. ft. of heating surface.....\$60

External Inspection.....\$30

For Pressure Heating Boilers and Hot Water Supply Boilers

Internal or External Inspection.....\$30

No more than \$120 shall be charged for any one boiler in any one year.

Pressure Vessels

Internal or External Inspection

Fees are based on the product of the overall length and maximum width or diameter of the vessel, measured in sq. ft.

20 sq. ft. - \$30.....\$30

20 sq. ft. - \$30.....\$30

20 sq. ft. - \$30.....\$30

No more than \$120 shall be charged for any one pressure vessel in any one

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Year.

Annual Statements (Owner-Users)
For statements covering not more than 25 vessels.....\$5 per vessel
For statements covering more than 25 vessels but not more than 50 vessels.....\$20
For statements covering more than 50 vessels but not more than 100 vessels.....\$25
For statements covering more than 100 vessels but not more than 500 vessels.....\$30
For statements covering more than 500 vessels.....\$30

Miscellaneous

Witness a Hydrostatic Test.....\$80

Joint reviews, audits, shop inspections.....\$50

5/2 day.....\$20

Full day.....\$40

Plus expenses, including travel and lodging.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 120.20 Administration

Administration (generally)

a) Applying State Serial Number. The State serial number on boilers shall be not less than 5/16" in height and shall be preceded by the letters "IF" which shall also be not less than 5/16" in height. Boilers will be identified by a five digit number. The State serial number on pressure vessels shall be not less than 5/16" in height and shall be preceded by the letters "IF" and the letter "V" which also shall be not less than 5/16" in height. Pressure vessels will be identified by a six digit number. The Inspector shall make certain that the correct Illinois State serial number is affixed to the boiler or pressure vessel at the time of inspection.

b) Attendants of Boilers. In the interest of safety, it is recommended that boilers in operation shall be under the supervision of and that attendants shall be available to the Chief Inspector.

c) Basis for Extending Certificate. The Chief Inspector is authorized to extend for a period not exceeding one year, the time within which power boilers are required to be internally inspected, subject to the following conditions and qualifications:

1) The analysis and treatment of feedwater for such power boilers shall be under the supervision of a person qualified in the field of water chemistry.

2) The analysis and treatment of the boiler feedwater shall be for the purpose of controlling and limiting serious deteriorating, encrusting and sludging factors affecting the safety of the boiler.

3) A) The owner or user of such power boilers must maintain, for examination by the Inspector, accurate records of such

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chemical and physical laboratory analysis of samples of the boiler water taken at regular intervals of not more than twenty-four (24) hours operation and of the treatment applied. These records must specify dates and times of analysis, by whom analyzed, and the treatment responsible at that time, and should will adequately show the conditions under which the boiler was operated. The records should also contain any constituents or characteristics which are capable of producing corrosion or other deterioration of the boiler or its parts.

8) The Chief Inspector is authorized to review the qualifications of the supervisor and the acceptability of supervision in accordance with the foregoing.

C) Application for extension shall be by letter setting forth facts establishing compliance with the foregoing conditions and qualifications, and shall be accompanied by the report of external inspection.

d) Unsafe Boilers or Pressure Vessels. Any boiler or pressure vessel having been inspected and declared unsafe by an inspector shall have the inspection certificate suspended.

e) Factors of Safety for Boiler Installations. An inspector shall process a pressure vessel having the condition of a boiler or pressure vessel varying in it, if the owner or user does not concur with the inspector's decision, the owner or user may appeal to the Board.

f) Frequency of Inspection of Boilers and Pressure Vessels.

1) Power boilers and high-pressure high temperature water boilers shall receive a certificate inspection annually, which shall be an internal inspection where conditions permit. Such boilers shall also be inspected externally annually while under representative operating conditions, if possible.

2) Low pressure steam and hot water heating boilers and hot water supply boilers shall be inspected both internally and externally every two years where conditions permit and shall receive a certificate inspection every two years.

3) Inspection with the regular inspection of boilers.

4) Pressure vessels subject to internal corrosion shall receive a certificate inspection every three years. This inspection shall be external and internal where conditions permit. However, owner users qualified in accordance with Section 15 of the Act shall have the option of using API-510 or the N.B.I.C. for inspection intervals.

5) Pressure vessels not subject to internal corrosion shall receive a certificate inspection every three years. However, owner users qualified in accordance with Section 15 of the Act shall have the option of using API-510 or the N.B.I.C. for inspection intervals.

9) Inspection and Inspection Certificate.

1) If a boiler or pressure vessel shall, upon inspection, be found

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to be suitable and to conform to this Part, the owner or user shall pay the fees as established by the Board provided-in-the-Act for each boiler and pressure vessel inspected before an inspection certificate shall be issued.

2) If the owner or user of each boiler or pressure vessel required to be inspected refuses or fails to allow an inspection to be made, or if the owner or user of a boiler or pressure vessel fails to pay the fee for inspection, the Chief Inspector shall suspend the inspection certificate until the owner or user complies with the requirements.

3) The owner of user who causes a boiler or pressure vessel to be operated without a valid inspection certificate shall be subject to the penalty as provided in the Act.

h) Inspectors to have no Other Interests. It is prohibited for any employee of the Division of Boiler and Pressure Vessel Safety to accept any compensation or remuneration emanating from any source for acting as a Consultant, Engineer, Safety Engineer, Safety Specialist, etc., or under any other title. Employees of this Division shall not be engaged in the sale of any article or device that is related to boilers or pressure vessels and shall devote their full time to inspection work.

i) Installing Used or Second-Hand Boilers or Pressure Vessels. A boiler or pressure vessel shall not be installed or placed in service unless it has been inspected and found to be in compliance with the requirements of the Act. In a case where a boiler or pressure vessel is moved and reinstalled, the fittings and appurtenances shall be upgraded to comply with the Rules for new installations.

j) Inspectors to Notify Chief Inspector of defective boilers and pressure vessels. If an inspector finds that a boiler or pressure vessel or any of the appurtenances are in an unsafe condition the inspector shall immediately notify the Chief Inspector and submit a report of the defects.

k) Insurance Agencies to Notify the Chief Inspector of New, Searched or Suspended Risks. All Insurance Agencies shall notify the Chief Inspector within 30 days of all boiler or pressure vessel risks insured by them.

l) Manufacturers Data Reports on Boilers and Pressure Vessels. Manufacturers Data Reports on boilers and pressure vessels, as required by the Act, shall be filed with the Chief Inspector through the National Board. It is intended that each boiler and pressure vessel so filed should be assigned a National Board number.

m) Boilers and Pressure Vessels without ASME Stamping. If the boiler or pressure vessel does not bear the ASME stamping, then the drawings, data and material showing all details of construction shall be submitted to the Chief Inspector and his approval obtained before installation in this State. The Chief Inspector shall grant his approval if the construction, materials and inspection requirements

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- 2) An organization authorized by the Division of Boiler and Pressure Vessel Safety pursuant to this Subpart to repair boilers of pressure vessels for their own use.
- d) All boilers and pressure vessels covered by the Act altered after July 31, 1997 ~~July 19, 1999~~, shall be altered in accordance with Section 120.1041(b).

(Source: Amended 20 Ill. Reg. _____, effective _____)

Section 120.1010 Authorization to Repair Boilers and Pressure Vessels

Realizing the importance of the proper repair of boilers and pressure vessels, the Board of Boiler and Pressure-vessel Rules authorized the development of the Boiler and Pressure-vessel Code, which is the basis for the repair procedures and rules for the issuance and use of the Certificate of Authorization for repair for those organizations requesting authorization for repair. The Board of Boiler and Pressure-vessel Rules under Section 1220.000(2) of the Rules, Division III, review the repair organizations' Quality Control Manual and shall require a demonstration of the repair organizations' Quality Control System as described in this Subpart.

(Source: Amended 2011, Reg. effective)

Section 120.1030 Changes to Certificates of Authorization

When an alteration authorized by the Division to repair boilers and pressure vessels shall include changes location and/or ownership or name, the Office of State Fire Marshal, Division of Boiler and Pressure Vessel Safety shall be notified. When a repair, alteration changes location, name or ownership, a new registration shall be obtained from the Division. The Division is notified by the State Property Control System is entered.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 120.1041 Repair and Alteration Requirements

- a) repairs. Except as permitted for low-pressure boilers covered in Section 2300.22, repairs to repair to a return or pressure vessel or high pressure piping shall be made without the authorization of the Inspector who shall be satisfied that the welding procedures and welders are qualified and that the repair methods are acceptable. The Inspector may give prior approval for repairs of a routine nature. In every case, however, the Inspector shall be advised of each repair and such prior agreement.
- b) alterations. Repairs are permitted for owners in Section 2300.1200(1000) alterations to boilers and pressure vessels shall be performed by an authorized repair organization. Repairs shall be

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Maintain Read-Ready Status—The inspector shall maintain a status ready to respond at all times without delay to the vessel's request for inspection. No alteration or modification of the vessel's schedule or operation shall be required. The vessel shall be maintained in such condition as to allow inspection without delay.

- c) Welded repairs to low pressure boilers. All welded repairs to low pressure boilers shall be performed by an authorized welder and shall comply with all the rules as required by the ASME code. A third party inspection is required prior to the start of any low pressure boiler repair. The authorized welder shall submit the Division and request a low pressure boiler repair certificate. The number and location of the repair shall be indicated on the certificate and inform the Division of the Division. The repair shall be completed within 30 days of the completion of the repair. The authorized welder will submit a completed low pressure boiler repair certificate to the Division.
- d) Low pressure boiler repair. All repairs to low pressure boilers shall be performed by an authorized welder and shall comply with all the rules as required by the ASME code. A third party inspection is required prior to the start of any low pressure boiler repair. The authorized welder shall submit the Division and request a low pressure boiler repair certificate. The number and location of the repair shall be indicated on the certificate and inform the Division of the Division. The repair shall be completed within 30 days of the completion of the repair. The authorized welder will submit a completed low pressure boiler repair certificate to the Division.

4. Acceptance Inspection. It shall be the responsibility of the Commandant making the repair or alteration to coordinate the acceptance inspection of the repair or alteration. Except for repairs of a routine nature, a completed record of the repair or alteration shall be submitted to the Division by those examinations authorized under Section 10.100(1)(2). Authorized examiners shall submit the completed Material Record Form to the Division upon completion of repairs or alterations.

5. General Acceptance Inspection of Repairs. An Owner-Inspector may perform acceptance inspections of repairs and alterations to boilers and pressure vessels when such repairs and alterations are seen performed by the Inspector or Supervisor, provided the Inspector or Supervisor is not the person performing the repair or alteration. Acceptance and inspection procedures shall be subject to the concurrence of the Authorized Inspection Agency responsible for the boiler or pressure vessel.

is not to be dismissed as a new stage in the development of the newspaper, but as a new stage in the development of the newspaper.

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- 1) Replacement parts subject to internal or external pressure that consist of materials which may be formed or assembled to the required shape of bending, forging or other forming methods, but on which no shop sandblasting or welding is performed in the supplied as welded condition and which are not to be welded by the user. Material and drawings with ASME Code compliance.
- 2) Replacement parts subject to internal or external pressure that are fabricated by welding, but on which shop inspection is not required by the ASME Code, shall have the welding performed in accordance with Section IX and other applicable sections of the ASME Code. The replacement part assembly identification shall be supplied in the form of bills of material and drawings. The supplier or manufacturer shall certify that the material, design and fabrication are in accordance with the applicable section of the ASME Code.
- 3) Replacement parts subject to internal or external pressure that are fabricated by welding which require shop inspection by an authorized ASME Code Inspector shall be marked with the ASME Code stamp of authorization and the appropriate Code Symbol Stamp. A manufacturer's Partial Data Report shall be supplied by the manufacturer.

1177 Pressure Tests

- 1) Repairs. The Inspector may require a pressure test after the completion of a repair to a boiler or pressure vessel when in the Inspector's judgment one should be conducted.
- 2) Alterations. A pressure test in accordance with the National Board Inspection Code shall be applied to the boiler or pressure vessel on the completion of an alteration.

1178 Repair Methods. Repair methods in this section shall be used in conjunction with the general requirements in Section 120.100(b) of this Part.

- 1) Defect repairs. A repair of a defect, such as a crack in a welded joint or base metal, shall not be made until the defect has been removed. A suitable nondestructive method shall be used to assure its complete removal. If the defect penetrates the full thickness of the material, the repair shall be made with a complete penetration weld such as double butt weld or a single butt weld with or without backing. Before repairing a cracked area, care shall be taken to investigate its cause and to determine its extent.
- 2) Unstayed Boiler Furnace Cracks. Cracks at the knuckle or at the turn of the flange of the furnace opening require immediate replacement of the affected area or specific approval of repairs by the authorized Inspection Agency. Cracks radiating from rivet or plate flange holes shall be repaired if the plate is not seriously affected. Notes may be repaired if the plate is not seriously

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- 4) Minor Defects. Minor cracks, isolated pits, and small plate imperfections shall be examined to determine the extent of the defect. Minor defects shall be repaired by welding. When welding is required, these defects shall be prepared for welding by grinding to solid metal. Liquid penetrant or magnetic particle examination may be used before and/or after welding.
- 5) Defective Bolting. Defective bolting material shall not be repaired but shall be replaced with suitable material which meets the specifications of the applicable section of the ASME Code.

1179 Wasted Areas

- 1) Shells, Drums, Headers. Wasted areas in stayed and unstayed shells, drums and headers may be built up by welding provided that in the judgment of the Inspector the strength of the structure will not be impaired. Where extensive weld build-up is employed, the Inspector may require an appropriate method of NDE (nondestructive examination) for the complete surface of the repair. Repairs shall not be made in the vicinity of any longitudinal or circumferential welds. For details see Section 120.100(c)(1)(4).
- 2) Access Openings. Wasted areas around access openings may be built up by welding or they may be repaired. In boilers, the area to be repaired shall not be closer than 2 inches (50.8mm) from any knuckle.
- 3) Flanges. Wasted flange faces may be cleaned thoroughly and built up with weld metal. They should be machined in place if possible to a thickness not less than that of the original flange or that required by calculations in accordance with the provisions of the applicable section of the ASME Code. Wasted flanges may also be remained in place without building up with weld metal provided the metal removed in the process does not reduce the thickness of the flange to a measurement below that calculated above. Flanges which are damaged by leakage of fluid from the joint should be replaced with new flanges which shall be built up to the original dimensions conforming to the applicable section of the ASME Code.
- 4) Tubes. Wasted area in tubes may be repaired by welding provided that in the judgment of the Inspector the strength of the tube will not be impaired.
- 5) Corrosion, Grooving.
 - A) Localized corrosion that produced a groove, especially along or immediately adjacent to a joint, could be more serious than a similar amount of corrosion on solid plate away from the joint. Grooving and cracks along longitudinal joints are especially significant as they are likely to occur where the material is more highly stressed. Severe corrosion is likely to occur at points where the calculation of the corrosive fluid is poor; such places shall be examined most

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- Carefully.
- B) For the purposes of estimating the effect of corrosion or other defects upon the strength of a shell, comparison shall be made with the efficiency of the longitudinal joint of the boiler or pressure vessel, the strength of which is always less than that of a solid sheet, thoroughly, particularly the flange and that inspected, internal grooving in the flange, adding that internal grooving in the outer the flange of each head and external grooving in the outer surfaces of heads concave to pressure are very common since there is a slight movement in heads of this character which produces this kind of defect. Some types of boilers or pressure vessels have the cone or reversed-flange construction in a few of their parts that may be inaccessible to the eye, but the conditions shall be determined by the insertion of a borescope, fiber optics or a mirror which, at a proper angle, will reflect back to the eye the condition of such a part.
- D) On new vessels and on vessels for which service conditions are being changed, one of the following methods shall be employed to determine the probable rate of corrosion from which the remaining wall thickness at the time of the next inspection shall be determined:
- i) The corrosion rate as established by accurate data collected by the owner or user on vessels in the same or similar service.
 - ii) If accurate data for the same or similar service are not available, the probable corrosion rate as estimated from the Inspector's knowledge and experience on vessels in similar service.
 - iii) If the probable corrosion rate cannot be determined by either of the above mentioned methods, thickness determinations shall be made after approximately 1000 hours of service, or one normal run if longer than that, subsequent sets of thickness measurements shall be taken after additional similar intervals until the corrosion rate is determined.
 - iv) The corrosion rate indicated by the first inspection may be used as a first approximation of the corrosion rate but shall be excluded from all subsequent computations of the corrosion rate, since attack on the initial surfaces may not be indicative of subsequent attack on corroded surfaces.
- 1st Seal Welding**
- 1) Seal Welding of Tubes. Tubes may be seal welded provided the ends of the tubes have sufficient wall thickness to prevent burn through and the requirements of the appropriate sections of the ASME Code are satisfied.

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- 2) Seal Welding of Riveted Joints. Edges of butt straps, plate laps and nozzles, or of connections attached by riveting may be restored to original dimensions by welding. Seal welding of riveted joints, butt straps or rivets shall require the approval of the Authorized Inspection Agency.
- mt Re-Ending or Pacing Pipes and Tubes.** Re-Ending or pacing pipes and tubes is permitted provided the thickness of the remaining tube or pipe is not less than 9/16 percent of that required by the applicable Section of the ASME Code.
- mt Patching**
- 1) Patching Patches. The weld around a flush patch shall be a full penetration weld and the accessible surfaces shall be ground flush where required by the applicable Section of the ASME Code. Flush welded patches shall be subjected to an appropriate nondestructive examination which shall be consistent with the original construction requirements.
 - 2) Tube Patches. In some situations it is necessary to weld a flush patch on a tube, such as when replacing tube sections and accessibility around the complete circumference of the tube is restricted or when it is necessary to repair a small bulge. This is referred to as a window patch.
 - 3) Stays. Threaded stays may be replaced by welded-in stays provided that, in the judgment of the Inspector, the plate adjacent to the staybolt has not been materially weakened by deterioration or wasting away. All requirements of the applicable Section of the ASME Code governing welded-in stays shall apply.
- mt Alteration Methods.** Alteration methods shall comply with the general requirements of Section 10.1000(b) of this Part.
- mt Replacement of Drums and Shells.** Major replacement of pressure parts, including drums and shells, which are fabricated by welding and for which a Manufacturer's Data Report is required by the applicable Code Section shall be fabricated by a manufacturer having an ASME Certificate of Authorization and the appropriate Code Symbol Stamp. The item shall be inspected, stamped with the applicable Code Symbol and the word "MAFR", and reported on the appropriate Manufacturer's Partial Data Report.
- mt Replaced Stamping.** When a repair or alteration requires removal of that part of a boiler or pressure vessel containing the Code Stamping, the Inspector shall be subject to the approval and observation of the ASME Inspector. The Inspector shall make a record of the obliteration of the old stamping and the number of the stamping to the new part. When the stamping is on a nameplate, the Inspector is to witness the transfer of the nameplate to the new part. The Code Symbol is not to be restamped.
- mt Rating of a Boiler or Pressure Vessel.** Rating of a boiler or pressure vessel by increasing the maximum allowable working pressure (internal or external) or temperature, or decreasing the minimum

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temperature such that additional mechanical tests are required, shall be considered an alteration and shall be done only after the following requirements have all been met to the satisfaction of the Authorized Inspection Agency:

- 1) Revised calculations verifying the new service conditions shall be required from the original manufacturer for review and acceptance by the Authorized Inspection Agency. When such calculations cannot be obtained from this source, they may be prepared by an Engineer and forwarded for review and acceptance by the Authorized Inspection Agency.
- 2) All repairs shall be established in accordance with the ASME Code for the boiler or pressure vessel. The repair shall be completed using the appropriate formula in the latest edition of the ASME Code. All essential details are definitely known to comply with the edition of the Code to which the object was built.

- 3) Current inspection records verify that the boiler or pressure vessel is satisfactory for the proposed service conditions.

- 4) The boiler or pressure vessel has been pressure tested for the related condition as required by subsection (b)(2) of this Section.

Suggested

1) The inspector should be well informed of the nature and extent of the defects and deterioration of the boiler or pressure vessel. The inspector should be given sufficient time to make the examinations thorough in every way, taking no one's statement as final as to conditions not personally observed, and, in the event of inability to make thorough inspections, the inspector should note it in the report and not accept the statements of others.

- 2) The inspector shall make a general observation of the conditions of the boiler room and apparatus, as well as of the attendants, as a guide in forming an opinion of the general care of the equipment.

- 3) The inspector shall weigh very carefully the condition of any defects in order to determine their relation to, or influence upon, the safety of the inspected boiler or pressure vessel. The inspector should question responsible employees, attendants, and owners. Original question responsible employees, attendants, and owners: ascertain nature, extent, repairs have been made; ascertain the character of repairs; investigate and determine whether repairs were made properly and safely.

(Source: Amended at 10 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- 1) **Heading of the Part:** Modified Guaranteed Annuity (MGA) Contracts
- 2) **Code Citation:** 50 Ill. Adm. Code 1410
- 3) **Section Numbers:**

1410.10	Proposed Action:
New Section	Added
1410.20	New Section
New Section	Added
1410.30	New Section
1410.40	New Section
1410.50	New Section
1410.60	New Section
1410.70	New Section
1410.80	New Section
- 4) **Statutory Authority:** Implementing Article XIV and authorized by Section 491 of the Illinois Insurance Code [215 ILCS 5/Art. XIV and 501].

- 5) A. Complete Description of the Subjects and Issues Involved: Part 1410 will establish required contract provisions and issues involved in MGA annuity contracts. Part 1410 also provides guidelines for the use of sales materials for MGA annuities. B. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. C. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. D. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. E. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. F. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. G. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. H. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. I. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. J. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. K. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. L. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. M. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. N. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. O. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. P. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. Q. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. R. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. S. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. T. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. U. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. V. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. W. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. X. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. Y. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities. Z. Complete Description of the Subjects and Issues Involved: Part 1410 also provides guidelines for the use of sales materials for MGA annuities.

- 6) Part 1410 also requires that insurers provide an annual report to their contractholders showing both accounts as well as cash surrender values.

- 7) Will this proposed rule replace emergency rules currently in effect? No

- 8) Does this rule contain an automatic repeal date? No

- 9) Does this proposed rule contain incorporations by reference? No

- 10) Are there any other proposed amendments pending on this Part? No

- 11) Statement of Statutory Policy Objectives: This rule will not necessitate that a local government establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

David Van Leshout

Mary Meyer

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

Assistant Chief Counsel
Department of Insurance
320 West Washington
(or)
Springfield IL 62767
(217) 785-8220

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rule will not affect small businesses.

- 13) Regulatory Agenda on which this rule was summarized: January 1995

The full text of the Proposed Rule begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER 5: LEGAL RESERVE LIFE

PART 140
MODIFIED GUARANTEED ANNUITY (MGA) CONTRACTS

Section	Purpose
140.10	Authority
140.20	Refundability
140.30	Reserve
140.40	Authority of Insurers
140.50	Filing of Contracts
140.60	Modified Guaranteed Annuity (MGA) Contract Requirements
140.70	Reserve Liabilities
140.80	Reports to Policyholders

AUTHORITY: Implementing Article XIV and authorized by Section 401 of the Illinois Insurance Code (215 ILCS 5/Art. XIV and 401).

SOURCE: Adopted at 20 Ill. Reg. _____, effective _____.

Section 140.10 Purpose

The purpose of this Part is to establish the required contract provisions for modified guaranteed annuity contracts.

Section 140.20 Applicability

This Part shall apply to insurance producers who sell modified guaranteed annuity contracts and insurers who issue such contracts in this State.

Section 140.30 Definitions

Adjusted Minimum Manufacture Amount means the minimum manufacture amount as defined in Section 229.1 of the Illinois Insurance Code (215 ILCS 5.229.1) adjusted by the Market Value Adjustment.

Appointed Actuary means any individual who is appointed or retained in accordance with the requirements set forth in 50 Ill. Adm. Code 1408.10(c) to provide the actuarial opinion and supporting memorandum as required by Section 223(1a) of the Illinois Insurance Code (215 ILCS 5.223(1a)).

Code means the Illinois Insurance Code (215 ILCS 5).

Director means the Director of the Department of Insurance.

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Insurance Producer means an individual licensed pursuant to Article XXII of the Code [215 ILCS 5/Art. XXII] who solicits, negotiates, effects, procures, renews, continues or binds modified guaranteed annuity contracts in this State.

Insurer means any insurance company which has delivered or issued for delivery in this State a modified guaranteed annuity contract.

Interest Credit means all interest that is credited to the contract.

Market Value Adjustment (MVA) means a formula specified in the contract which adjusts the cash value of the contract. It reflects changes in prevailing interest rates and the time remaining until the date in which the cash surrender value is available without adjustment.

Minimum Nonforfeiture Amount means the minimum nonforfeiture amount as defined in Section 229.4 of the Code [215 ILCS 5/229.4].

Modified Guaranteed Annuity (MGA) means a fixed annuity, or a fixed portion of a combination annuity, that is funded through the general account (if permitted), and provides for guaranteed cash surrender values on specified dates or specified ages and with interim cash surrender values that are adjusted in accordance with an MVA.

Section 1410.40 Authority of Insurers

The following requirements apply to all insurers who have authority to issue MGA contracts in this State:

- a) Approval of Surrender:
 - 1) Surrender shall be delivered or issued for delivery any MGA contracts unless licensed to do life insurance or annuity business in this State.
 - 2) An insurer shall submit to the Director a general description of the kinds of annuities it intends to issue prior to the delivery or issue of the contracts within this State.
- b) Use of Sales Materials:
 - 1) An insurer authorized to sell MGA contracts in this State shall not use any sales material, advertising material, descriptive literature or other materials of any kind in connection with the sale of MGA contracts in this State which are false, misleading, deceptive or inaccurate.
 - 2) Illustrations of benefits payable under any MGA contract shall not include projections of past investment experience, into the future or attempted predictions of future investment experience, except where an appropriate and assumed interest credits may be used to illustrate the contract.
 - 3) Before any insurer shall deliver or issue for delivery any MGA

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contract in this State, the Director may require the filing of a copy of other sales material to be used in connection with the marketing of the insurer's MGA contract. The sales material must clearly illustrate that there can be both upward and downward adjustments due to the application of the MVA formula in determining nonforfeiture benefits.

- c) Reports:
 - Any insurer authorized to transact the business of MGA contracts in this State shall submit to the Director such additional information concerning its MGA operations as the Director may deem necessary.
- d) Authority of Director to Disapprove:
 - Any material filed with and approved by the Director pursuant to Section 1410.60 of this Part shall be subject to disapproval if it is not in compliance with this Part, the Director must be satisfied that the insurer's condition or method of operation in connection with the issuance of MGA contracts will not render its operation hazardous to the public or its policyholders.

Section 1410.50 Filing of Contracts

The filing requirements applicable to MGA contracts shall be made pursuant to Section 143 of the Code [215 ILCS 5/143] and 59 Ill. Adm. Code 916. Filings shall include a demonstration that the nonforfeiture provisions of the contract comply with Section 229.4 of the Code [215 ILCS 5/229.4] and Section 1410.60(b) of this Part.

Section 1410.60 Modified Guaranteed Annuity (MGA) Contract Requirements

- a) Mandatory Contract Benefit and Design Requirements:
 - 1) Any MGA contract delivered or issued for delivery in this State shall contain a statement of the procedures to be followed by the insurer in determining the dollar amount of nonforfeiture payments.
 - 2) No MGA contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this State unless it contains the following provisions:
 - A) A provision that there shall be a grace period of thirty (30) days or one month following the premium due date during which the contract shall remain in force and, within which any payment due to the insurer, other than the first, may be made. The contract may include a statement of the basis for determining the date as to which any such payment received during the grace period shall be applied to produce the values under the contract.
 - B) A provision that, at any time within one year from the date of default, the contract may be reinstated upon payment by the insurer of such premium payments required by the contract, and of all indebtedness to the insurer on the

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contract, including interest. Reinstatement may not occur if the cash value has been paid. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and interest shall be applied to produce the values under the contract.

- 3) The MVA formula, used in determining nonforfeiture benefits, must be stated in the contract and must be applicable for both upward and downward adjustments. When a contract is filed, it must be accompanied by an actuarial certification by a qualified actuary indicating the basis for the MVA formula and that the contract contains reasonable equity to both the contractholder and the insurer.

b) Nonforfeiture benefits:

- 1) This subsection shall not apply to any of the contracts excluded in Section 229.4/11 of the Code (215 ILCS 5/229.4/11).
- 2) Any paid-up annuity benefit available under an MGA contract shall be such that its present value on the annuity commencement date is at least equal to the Minimum Nonforfeiture Amount on that date. Such present value shall be computed using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.
- 3) For MGA contracts which provide cash surrender benefits, the cash surrender benefit at any time prior to the annuity commencement date shall not be less than the Adjusted Minimum Nonforfeiture Amount next computed after the request for cash surrender benefits is received by the insurer. If the cash surrender contractually is at least equal to the cash surrender benefit, the contract may provide that the insurer may defer payment of such cash surrender benefit for a period of six (6) months after demand.
- 4) Any MGA contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the Adjusted Minimum Nonforfeiture Amount prior to the annuity commencement date shall include a statement in a prominent place in the contract that such benefits are not provided.
- 5) For any MGA contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross contributions plus interest, the contract shall include a statement of the basis for the Adjusted Minimum Nonforfeiture Amount for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract.

c) The Application:

The application for an MGA shall prominently set forth language stating that amounts payable under the contract are subject to a market value adjustment prior to a date or dates specified in the

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contract. The statement shall be placed immediately above the signature line on the application.

Section 1410.70 Reserve Liabilities

- a) The reserve is the greater of (a)(1) or (a)(2) below:
 - 1) the cash surrender value at the date of valuation, excluding the effect of the MVA or
 - 2) the present value of the contract benefits that are guaranteed, in such present value assuming a "g" type contract as defined in section 223.6/11(C)(5) of the Code (215 ILCS 5/223.6/11(C)(5)).
- b) Each contractholder or beneficiary must provide an opinion on whether the facts reported to the MGA are sufficient to provide for future benefits that are guaranteed. The MGA formula to provide guarantees and the degree to which projected cash flow of assets and liabilities are matched must also be considered.

Section 1410.80 Reports to Policyholders

Insurers will annually provide their contractholders with a report showing both the account value and the cash surrender value. The report must indicate the amount of any expense charges used to determine the account value and that the account value is determined prior to any adjustment(s) for surrender charges or the MVA formula. It should also specify the surrender charge and MVA and any other charges used to determine the cash surrender value.

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.159
Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (305 ILCS 5-12-13).
- 5) Complete Section of the Subject and Issues Involved: These proposed amendments revise Departmental Code 140.159 for nursing facilities to include residential care. Under the exceptional rate system, the Department assesses payments to nursing facilities for the care of residents on various multi-disciplinary levels of medical and nursing care involving extraordinary costs related to services, equipment and supplies that are medically necessary. The proposed rulemaking amplitifies exceptional rate care setting through incorporation into the regular rate setting process. Increases access to exceptional care services, and provides Department nursing staff with more time to address quality of care needs of facility residents. Other proposed amendments increase the percentage of facility rates in exceptional care reimbursement, eliminate eligibility for Medicaid eligible residents who are receiving Medicare benefits and expand the settings from which an eligible client may be discharged.
- 6) All these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

Section	Proposed Action	Illinois Register Citation
140.7	Amendment	August 25, 1995 (13 Ill. Reg. 12210)
140.3	Amendment	August 25, 1995 (13 Ill. Reg. 12210)
140.20	Amendment	July 12, 1996 (20 Ill. Reg. 8939)
140.34	Amendment	July 12, 1996 (20 Ill. Reg. 8939)
140.339	Amendment	April 12, 1996 (20 Ill. Reg. 5448)
140.555	Amendment	July 12, 1996 (20 Ill. Reg. 8939)
140.560	Amendment	July 12, 1996 (20 Ill. Reg. 8939)

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- 140.561 Amendment July 12, 1996 (20 Ill. Reg. 8939)
- 140.578 Amendment July 12, 1996 (20 Ill. Reg. 8939)
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:
Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Ave., E., 3rd Floor
Springfield, IL 62762
(217) 524-0081
- The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act (5 ILCS 100.5-40).
- These proposed amendments may have an impact on small businesses, municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act (5 ILCS 100.1-75, 1-80, 1-85). These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act (5 ILCS 100.5-30). These entities shall indicate their status as small businesses, municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Nursing facilities
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory agenda on which this rulemaking was submitted: January 1996
- The full text of the Proposed Amendments begins on the next page:

NOTICE OF PROPOSED AMENDMENTS

TITLE 93: SOCIAL SERVICES
CHAPTER 1: DEPARTMENT OF PUBLIC AID
SUBCHAPTER 1: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

- Section
140.1 Incorporation by Reference
140.2 Medical Assistance Programs
140.3 Covered Services Under Medical Assistance Programs
140.4 Covered Medical Services Under APC-WANG for Non-pregnant Persons who are 2 Years of Age or Older (Repealed)
140.5 Covered Medical Services Under General Assistance
140.6 Medical Services Not Covered
140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for APC and Children Under Age Eight
140.8 Medical Assistance for Qualified Severely Impaired Individuals
140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for APC-WANG if the Child were Already Born or Who Do Not Qualify As Mandatorily Categorically Needy
140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

- Section
140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 General Application to Participate in the Medical Assistance Program
140.15 Recovery of Money
140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17 Suspension of Vendor's Eligibility to Participate in the Medical Assistance Program
140.18 Effect of Termination on Individuals Associated with Vendor
140.19 Application to Participate or for Reinstatement Subsequent to Termination or Suspension or Barred
140.20 Submittal of Claims
140.21 Covered Medical Services for Qualified Medicare Beneficiaries (QWBs)
140.22 Magnetic Tape Billings
140.23 Payment of Claims
140.24 Payment Procedures
140.25 Overpayment or Underpayment of Claims
140.26 Payment to Factors Prohibited

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- 140.27 Assignment of Vendor Payments
140.28 Record Requirements for Medical Providers
140.30 Audits
140.31 Emergency Services Audits
140.32 Prohibition on Participation, and Special Permission for Participation on List of Terminated, Suspended or Barred Entities
140.33 Publication of List of Terminated, Suspended or Barred Entities
140.35 Release Reporting and Other Fraudulent Activities
140.36 Prior Approval for Certain Services or Items
140.40 Limitation on Prior Approval
140.42 Limitation on Prior Approval
140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.51 Recipient Eligibility Verification (RV) System
140.55 Reimbursement for Medical Services Through the Use of a C-1 Invoice
140.56 Voucher Advance Payment and Expedited Payments
140.72 Drug Manual (Recodified)
140.73 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

- Section
140.80 Hospital Provider Fund
140.81 Covered Services
140.82 Temporary Care/Provider Fund
140.84 Medicaid Developmentally Disabled Provider Participation Fee Fund
140.85 Fund Medicaid Long Term Care Provider Participation Fee Fund
140.86 Hospital Services Trust Fund
140.95 General Requirements (Recodified)
140.96 Special Requirements (Recodified)
140.97 Covered Hospital Services (Recodified)
140.98 Hospital Services Not Covered (Recodified)
140.99 Limitation on Hospital Services (Recodified)
140.100 Transplants (Recodified)
140.101 Heart Transplants (Recodified)
140.102 Liver Transplants (Recodified)
140.103 Bone Marrow Transplants (Recodified)
140.104 Organ Transplant Services for A (Recodified)
140.106 Patient Care Program Services for A (Recodified)
140.107 Hospital Outpatient and Clinic Services (Recodified)
140.108 Payment for Hospital Services During Fiscal Year 1992 (Recodified)
140.109 Payment for Hospital Services After June 30, 1992 (Repealed)
140.201 Payment for Hospital Services During Fiscal Year 1993 (Recodified)
140.202 Limits on Length of Stay or Diagnosis (Recodified)
140.203 Payment for Pre-operative Days and Services Which Can Be Received in an Outpatient Setting (Recodified)
140.350 Copayments (Recodified)
140.360 Payment Methodology (Recodified)

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Utilization, Case-by-case and Discretionary Funds (Repealed)	140.377
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Treatment Services (Recodified)	140.379
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SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

140.400	Section	140.461	Clinic Participation, Data and Certification Requirements
140.401	Payment to Practitioners, Nurses and Laboratories	140.462	Covered Services in Clinics
140.402	Physician Services	140.463	Clinic Service Payment
140.403	Covered Services	140.464	Healthy Moms Healthy Kids Vascular Care Clinics (Repealed)
140.404	Covered Services By Physicians	140.465	Speech and Hearing Clinics (Repealed)
140.405	Services Not Covered By Physicians	140.466	Rural Health Clinics
140.406	Limitation on Covered Services	140.467	Independent Clinics
140.407	Requirements for Prescriptions and Dispensing of Pharmacy	140.468	Hospice
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140.411	Limitations on Optometric Services	140.472	Prior Approval for Home Health Services
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140.413	Dental Services	140.474	Medical Equipment, Supplies and Prosthetic Devices
140.414	Limitations on Dental Services	140.475	Medical Equipment, Supplies and Prosthetic Devices for Which Payment Will Not Be Made
140.415	Requirements for Prescriptions and Dispensing of Pharmacy	140.476	Limitations on Equipment, Supplies and Prosthetic Devices
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Section	Subpart 3: GROUP CARE
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140.402	Family Planning Services
140.403	Limitations on Family Planning Services
140.404	Payment for Family Planning Services
140.405	Healthy Kids Program
140.406	Limitations on Medichex Services (Repealed)
140.407	Healthy Kids Program Timeliness Standards
140.408	Parity Schedule, Immunizations and Diagnostic Laboratory Procedures
140.409	Medical Transportation
140.410	Limitations on Medical Transportation
140.411	Payment for Medical Transportation
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140.413	Psychological Services
140.414	Payment for Psychological Services
140.415	Hearing Aids
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140.417	Long Term Care Services
140.418	Revelation of Payment for Federal Direction
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140.420	Cessation of Payment Because of Termination of Facility
140.421	Cessation of Payment Because of Threat To Life (Repealed)
140.422	Provider Voluntary Attrition
140.423	Continuation of Provider Agreement
140.424	Determination of Need for Group Care
140.425	Long Term Care Services Covered by Department Payment
140.426	Utilization Control
140.427	Utilization Review Plan (Repealed)
140.428	Certifications and Recertifications of Care
140.429	Management of Recipient Funds--Personal Allowance Funds
140.430	Recipient Management of Funds
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140.435	Room and Board Accounts
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140.437	Bad Reserves of Funds
140.438	Cessation of Payment Due to Loss of License
140.439	Quality Incentive Program (QUIP) Payment Levels
140.440	Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)
140.441	Quality Incentive Survey (Repealed)
140.442	Payment of Quality Incentive (Repealed)
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140.642 Screening Assessment for Nursing Facility and Alternative Residential Settings and Services

140.643 In-Home Care Program

140.645 Home and Community Based Services: Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21; Services for Individuals with Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities

140.647 Description of Developmental Training (DT) Programs

140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs

140.649 Effective Dates of Reimbursement for Developmental Training (DT) Programs

140.650 Certification of Developmental Training (DT) Programs

140.651 Decertification of Day Programs

140.652 Terms of Assurances and Contracts

140.653 Effective Date of Payment Rate

140.654 Discharge of Long Term Care Residents

140.655 Appeals of Rate Determinations

140.656 Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: MEDICAID PARTNERSHIP PROGRAM

Section

140.850 General Description (Repealed)

140.855 Definition of Terms (Repealed)

140.860 Covered Services (Repealed)

140.865 Sponsor Qualifications (Repealed)

140.870 Sponsor Responsibilities (Repealed)

140.875 Participant Responsibilities (Repealed)

140.880 Provider Qualifications (Repealed)

140.885 Payment Rates (Repealed)

140.890 Patient Verification (Repealed)

140.895 Contract Monitoring (Repealed)

140.896 Reimbursement for Program Costs (Active Treatment) for Clients in Long Term Care Facilities for the Developmentally Disabled (Repealed)

SUBPART G: MATERIAL AND CHILD HEALTH PROGRAM

Section

140.900 Reimbursement for Nursing Costs for Geriatric Residents in Group Care Facilities (Repealed)

140.901 Functional Areas of Needs (Repealed)

140.902 Service Needs (Repealed)

140.903 Travel Distance Standards (Repealed)

140.904 Times and Staff Levels (Repealed)

140.905 Statewide Rates (Repealed)

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140.906 Recertifications (Repealed)

140.907 Midnight Census Report (Repealed)

140.908 Times and Staff Levels (Repealed)

140.909 Referrals (Repealed)

140.910 Referrals (Repealed)

140.911 Basic Rehabilitation Aide Training Program (Repealed)

140.912 Inpatient Nursing Rates (Repealed)

140.920 General Description

140.922 Covered Services

140.924 Material and Child Health Provider Participation Requirements

140.926 Client Eligibility (Repealed)

140.928 Client Enrollment and Program Components (Repealed)

140.930 Reimbursement

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SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section

140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Repealed)

140.942 Definition of Terms (Repealed)

140.944 Notification of Negotiations (Repealed)

140.946 Hospital Participation in ICARE Program Negotiations (Repealed)

140.948 Negotiation Procedures (Repealed)

140.950 Factors Considered in Awarding ICARE Contracts (Repealed)

140.952 Closing an ICARE Area (Repealed)

140.954 Administrative Review (Repealed)

140.956 Payments to Contracting Hospitals (Repealed)

140.958 Admitting and Clinical Privileges (Repealed)

140.959 Eligible for Payment (Repealed)

140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Repealed)

140.964 Contract Monitoring (Repealed)

140.966 Transfer of Recipients (Repealed)

140.968 Validity of Contracts (Repealed)

140.970 Termination of ICARE Contracts (Repealed)

140.972 Hospital Services Procurement Advisory Board (Repealed)

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TABLE B Capital Cost Areas

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TABLE D Contracting Procedures

TABLE E Policy for Processing of Prior Approval Requests

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TABLE G Travel Distance Standards

TABLE H Areas of Major Life Activity

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July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14771, effective August 23, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 9, 1988; amended at 12 Ill. Reg. 17979, effective October 14, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 9, 1988; amended at 12 Ill. Reg. 19734, effective November 19, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 257, effective January 1, 1989; amended at 13 Ill. Reg. 308, effective January 1, 1989; amended at 13 Ill. Reg. 317, effective January 1, 1989; amended at 13 Ill. Reg. 345, effective April 3, 1989; amended at 13 Ill. Reg. 518, effective April 10, 1989; amended at 13 Ill. Reg. 7051, effective April 24, 1989; Sections 140.250 thru 140.896 reclassified to 93 Ill. Adm. Code 146.5 thru 146.235 at 13 Ill. Reg. 7440; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.98 reclassified to 93 Ill. Adm. Code 148.10 thru 148.30 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12139, effective July 7, 1989; Section 140.110 reclassified to 89 Ill. Adm. Code 143.20 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 27, 1989; amended at 13 Ill. Reg. 13384, effective August 4, 1989; emergency amendment at 13 Ill. Reg. 13418, effective August 18, 1989; amended at 13 Ill. Reg. 13902, effective September 1, 1989; amended at 13 Ill. Reg. 1390, effective December 11, 1989; amended at 14 Ill. Reg. 584, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 144, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4513, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 744, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 749, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7219, effective April 27, 1990; for a maximum of 150 days; amended at 14 Ill. Reg. 10064, effective July 2, 1990; for a maximum of 150 days; amended at 14 Ill. Reg. 10065, 1990; emergency amendment at 14 Ill. Reg. 10072, effective July 13, 1990; for a maximum of 150 days; amended at 14 Ill. Reg. 13652, effective August 5, 1990; emergency amendment at 14 Ill. Reg. 1434, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 21, 1990; amended at 14 Ill. Reg. 15166, effective September 12, 1990; amended at 14 Ill. Reg. 15384, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18058, effective October 30, 1990; amended at 14 Ill. Reg. 18811, effective November 6, 1990; amended at 14 Ill. Reg. 10478, effective December 7, 1990; amended at 14 Ill.

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Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1081, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 5220, effective April 18, 1991; amended at 15 Ill. Reg. 5534, effective April 30, 1991; amended at 15 Ill. Reg. 5264, effective May 23, 1991; amended at 15 Ill. Reg. 5972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10488, effective July 1, 1991; amended at 15 Ill. Reg. 11876, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 12535, effective July 25, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 12539, effective August 1, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective January 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17118, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 21, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 352, effective February 18, 1992; amended at 16 Ill. Reg. 4306, effective March 6, 1992; amended at 16 Ill. Reg. 5108, effective March 20, 1992; amended at 16 Ill. Reg. 5819, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11318, effective July 20, 1992; emergency amendment at 16 Ill. Reg. 12137, effective August 1, 1992; amended at 16 Ill. Reg. 12136, effective July 2, 1992; emergency amendment at 16 Ill. Reg. 13177, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 18116, effective December 1, 1992; amended at 16 Ill. Reg. 18979, effective December 7, 1992; amended at 17 Ill. Reg. 537, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2390, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 441, effective February 19, 1993; amended at 17 Ill. Reg. 626, effective April 7, 1993; amended at 17 Ill. Reg. 1339, effective April 29, 1993; amended at 17 Ill. Reg. 1340, effective April 29, 1993; amended at 17 Ill. Reg. 1341, effective April 29, 1993; amended at 17 Ill. Reg. 1078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 1101, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 1512, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 1912, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 25543, effective December 20, 1993; amended at 18 Ill.

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Department shall take into account cost information submitted by the facility.

- b) Exceptional Care Entrance Requirements
The Department may enter into agreements with providers for the provision of concentrated exceptional care services only if the provider agrees to the following terms and conditions:

- 1) The provider will maintain separate records regarding costs related to the care of the exceptional care residents reporting them in the facility section of the Department long-term-care plan.
- 2) The provider facility must demonstrate the capacity and ability to provide exceptional care as documented by Department of Public Health and Department of Public Aid records, including, but not limited to, being free of Department of Public Health findings that the provider has deficiencies related to substandard quality of care or imposition of a conditional license.

- 3) The provider must maintain and provide documentation demonstrating:

- A) Adherence to staffing requirements as set out in subsection (c) of this Section; training requirements as set out in subsection (d) of this Section; and
- B) Adherence to written agreements as required in subsection (e) of this Section.
- C) Presence of emergency policy and procedures as set out in subsection (f) of this Section;
- D) Medical condition of the resident; and
- E) Care, treatments and services provided to the resident.

f) The provider must have and maintain physical plant adaptations to accommodate the necessary equipment, such as an emergency electrical backup system.

5) The provider must have and maintain an emergency electrical backup system.

6) Exceptional Care Staffing Requirements

- a) Staffing Requirements for Facilities Providing Exceptional Care
1) A minimum of one RN on duty on the day shift, seven days per week (as required by the Department of Public Health in 77 Ill. Adm. Code 300.11240 or 300.13010(e) and (f)(1)(i) as appropriate). Additional RN staff may be determined necessary by the Department of Public Aid, based on the Department's review of the exceptional care services needs of individual residents and the extent of needs and the exceptional care needs relative to the category of residents being treated.

- 2) A minimum of the required number of LPN staff (as required by the Department of Public Health in 77 Ill. Adm. Code 300.11230 and 300.11240 or 300.13010(e) and (f)(1)(i) as appropriate), on duty, with

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an RN on call, if not on duty on the evening and night shifts, seven days per week; and

- 3) For those providers of complex respiratory or ventilator services under the exceptional care program. A certified respiratory therapist or registered respiratory therapist, on staff or on contract with the provider facility, for those facilities serving ventilator-dependent residents or residents requiring respiratory therapy services.

d) Training Requirements for Providers of Facilities Providing Exceptional Care for Ventilator Dependent Residents

- 1) At least one of the following professional nursing staff members will be employed by the facility: a) a certified respiratory therapist, registered individuals and one use of ventilators, conducted and documented by a certified respiratory technician or registered respiratory therapist or a qualified registered nurse who has at least one year experience in the care of ventilator dependent persons; b) a qualified staff of the supervisor, director, duration of presentation, content of presentation and signature and position description of all participants.

e) Exceptional Care Agreement Requirements

The provider must have a valid written agreement with:

- 1) A medical equipment and supply provider which must include a service contract for ventilator equipment when accepting ventilator dependent residents;
- 2) A local emergency transportation provider;
- 3) A local hospital capable of providing the necessary care for equipment dependent residents, when appropriate; and
- 4) A certified respiratory therapy technician or registered respiratory therapist, when appropriate. A respiratory therapist or registered respiratory therapist, on staff or on contract with the provider facility, for those facilities serving ventilator-dependent residents or residents requiring respiratory therapy services.

f) Exceptional Care Emergency Policy and Procedures Requirements

The provider must have specific written policies and procedures addressing emergency needs for residents requiring exceptional care.

g) Accessibility to Records

The provider must make accessible to IDPA and/or IDPH all provider facility, resident and other records necessary to determine that the needs of the resident are being met and to determine the appropriateness of exceptional care services.

h) Provider Approval Process Enhancements

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- Department in accordance with the approved plan for medical services under the Illinois Public Aid Code (305 ILCS 5/5-2), and Title XIX of the Federal Social Security Act (42 U.S.C. 1396a) shall continue to apply to exceptional care provided under the Exceptional Care Program described in the Health Finance Reform Act (20 ILCS 215/3-5).
- 2) The Department shall provide for a program of delegated utilization review and quality assurance. The Department may contract with Medical Peer Review Organizations to provide utilization review and quality assurance under any contract negotiated for reimbursement.
 - 3) The Department shall review exceptional care residents' utilization of services every 20 days. Review may be waived by the Department if the resident is one of more than one of the following:
 - a) The resident is a resident of a long-term care facility.
 - b) The resident is a resident of a nursing home.
 - c) The resident is a resident of a residential care facility.
 - d) The resident is a resident of a residential care facility.
 - e) The resident is a resident of a residential care facility.
 However, two consecutive reviews shall not be waived. Department exceptional care staff will maintain contact with the long term care provider facility regarding the resident's condition during the period any assessment is waived.
 - 4) In the event that it is determined that the resident is no longer in need of receiving exceptional care services, the Department shall discontinue the exceptional care payment rate for the resident and reduce the rate of payment to the provider to the provider's facility's standard Medicaid per diem rate.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Mobile Home Tie-down Act
- 2) Code Citation: 77 Ill. Adm. Code 870
- 3) Section Numbers:

<u>Proposed Action:</u>
Amendment
870.10
Amendment
870.30
Amendment
870.40
Amendment
870.50
Amendment
870.70
Amendment
870.80
Amendment
870.90
Amendment
870.100
- 4) Statutory Authority: Illinois Mobile Home Tie-down Act (210 ILCS 120)
- 5) A Complete Description of the Subjects and Issues Involved: The existing rules establish the requirements for the approval of tie-down equipment and the minimum number and type of ties required for the installation of mobile homes. The proposed amendments will address recent problems with the definitions and proper installation of equipment.
- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No
- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain any Incorporations by Reference? No
- 9) Are there any Other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not require expenditures by units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing, within 45 days after this issue of the Illinois Register, to:

Gail W. DeVito
 Division of Governmental Affairs
 Department of Public Health
 535 West Jefferson Fifth Floor
 Springfield, Illinois 62761
 (217) 782-6187

These rules may have an impact on small businesses. Any small business commenting on these rules shall indicate their status as such, in writing, in their comments.

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected: Manufacturers and installers of mobile home tie-down equipment.

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: None

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need for this rulemaking had not been identified at the time the Department filed its most recent regulatory agendas.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER 1: MOBILE HOMES

PART 970

ILLINOIS MOBILE HOME TIEDOWN CODE ACT

Section	Statutory Authority
970.10	Definitions
970.20	Tiedown Equipment Approval
970.30	Compliance
970.50	Tiedown Installation Requirements
970.60	Equipment Tiedown Standards and Specifications
970.70	Administrative Hearings Hearing
TABLE A	Minimum Number of Ties Required Per Side

AUTHORITY: Implementing and Authorized by the Illinois Mobile Home Tiedown Act (210 ILCS 120).

SOURCE: Adopted at 4 Ill. Reg. 25, p. 148, effective July 1, 1989; codified at 8 Ill. Reg. 17517; amended at 20 Ill. Reg. _____, effective _____.

Section 870.10 Statutory Authority

This part is promulgated pursuant to authority granted by the Illinois Mobile Home Tiedown Act (210 ILCS 120) Statutes-Public-Act-81-889.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 870.20 Definitions

In addition to the definitions contained in the Illinois Mobile Home Tiedown Act (210 ILCS 120) the following definitions shall apply:

- Diagonal Tie. An anchor tie designed primarily to resist horizontal forces during.
- Frost Depth. The maximum depth that frost penetrates the earth in a given area.
- Frost Heave. An upthrust of ground or pavement caused by freezing of moist soil.
- Independent Testing Laboratory. An organization which:

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TO THE NEW YORK DEPARTMENT OF PUBLIC HEALTH

Primarily is interested in testing and evaluating equipment; and is qualified and equipped to conduct and evaluate experimental testing and in accordance with approved standards; and

Wakes available a published report in which specific information is included stating that the equipment and installations have been tested and found safe for use in a specific manner; and

is not under the jurisdiction or control of any manufacturer or supplier of any industry.

[illegible][illegible]

Permanent Foundation. A perimeter formation intended to support and anchor the unit to withstand the specified design loads. It shall consist of materials such as concrete, mortared concrete block or mortared brick, steel or cast-iron timber extending into the ground below the first sand which seal. It shall include basevents or crawl spaces.

roof protectors. A device is designed to prevent over-the-top steps from jamming up or blocking the roof's drainage.

perimeter of the polygon is equal to the perimeter of the circle.

Tiedown Manufacturers, any person or business engaged in the manufacturing of tiedown equipment which is offered for sale or use in the State.

The 44th Annual Meeting of the American Society of Human Genetics will be held in conjunction with the 1996 Human Genome Conference, November 10-14, 1996, in Denver, Colorado. The meeting will be held at the Denver Marriott City Center, 1515 Broadway, Denver, CO 80202. The registration fee is \$150, which includes a luncheon and a reception. The registration fee for students is \$75. The registration fee for speakers is \$200. The registration fee for exhibitors is \$500. The registration fee for exhibitors is \$500. The registration fee for exhibitors is \$500.

DEPARTMENT OF PUBLIC HEALTH
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Source: Amended at 20 Ill. Reg. _____, effective _____.

Section 870.30 Tiedown Equipment Approval

- a) Approval. Each tie-down manufacturer shall file with the Department a written request for approval to sell tie-down equipment in Illinois. The request shall include the following information:
 - 1) Detailed plans and specifications of all new steel and wood tie-down equipment showing model identification number, pertinent dimensions, materials, and method of securing ties. Each drawing, attesting that the drawing accurately describes the anchor and tie-down, shall be signed by a registered Professional Engineer, and shall be accompanied by a letter of certification from the manufacturer.
 - 2) Test data regarding the strength of all equipment, determined by a recognized independent testing laboratory, demonstrating that the anchor and all tie-down equipment meets the requirements of Section 870.60. Each piece of equipment must be tested a minimum of three times and shown to meet the requirements of Section 870.60. Double headed anchors must be tested for the combined vertical and horizontal loads.
 - 3) Information as to the types of soil the anchor is certified to be installed in, and instructions as to the method of installation. Such instructions shall accompany all equipment each manufacturer sells. The instructions for installation must be consistent with the anchor's design and shall be included in the instructions for the tie-down and shall be included in the Department's instructions. The instructions for concrete anchors shall specify as a minimum the minimum amount of concrete required, the distance from the edge of the concrete and the compressive strength of the concrete. A copy of all plans and revisions to instructions must be submitted prior to the issuance of approval.
- a) Each anchor shall be permanently marked with an identification number that is visible when the equipment is installed.
- b) Individual Tie-down Approval. An individual concrete owner, dealer, or installer who wishes to tie down a mobile home with a unique system or materials different from one approved under subsection (a) above must submit all such information on material specifications, strength, equipment, and system design to the Department in Section 870.60. The information shall be accompanied by a letter of certification from the manufacturer and evidence of plan approval. The tie-down manufacturer shall present evidence of Department approval to any installer upon request. Approval shall be evidenced by the letter of approval from the Department.

- 1) Detailed plans and specifications of all equipment and individual equipment showing model identification number, serial number, dimensions, materials, and method of securing ties. Each drawing shall carry the seal of a registered Professional Engineer, attesting that the drawing accurately describes the anchor and tie-down as produced for sale or use;
- 2) Test data regarding the strength of all equipment ~~structures~~ ~~test-piece~~ ~~test-piece~~, which has been prepared and certified by a recognized independent testing laboratory, demonstrating that the anchor and all tie-down equipment meets the requirements of Section 870.60. Each piece of equipment must be tested a minimum of three times and shown to meet the requirements of Section 870.60. Double headed anchors must be tested for the combined vertical and horizontal loads.
- 3) Information as to the types of soil the anchor is certified to be installed in, and instructions as to the method of installation. Such instructions shall accompany all equipment ~~and~~ ~~equipment~~ ~~and~~ ~~equipment~~. The instructions for installation must be consistent with the testing of the equipment especially with regard to the angle and depth of installation of round anchors. The instructions for concrete anchors shall specify as a minimum the minimum amount of concrete required, the distance from the edge of the concrete and the compressive strength of the concrete. A copy of all plans and revisions to instructions must be submitted prior to the issuance of approval.
- 4) Each anchor shall be permanently marked with an identification number that is visible when the equipment is installed.
- 5) Individual ~~Anchor~~ ~~Anchor~~ Approval. An individual home owner, dealer, or installer who wishes to tie down a mobile home with a unique system or anchors different from one approved under subsection (a) above must submit such information on material specifications, strength of equipment, and system design to the Department for approval. Their approval will be based upon the criteria specified in Section 870.60. Evidence of plan approval. The tie-down manufacturer shall present evidence of Department approval to any installer upon request. Evidence of approval shall be evidenced by the letter of approval from the Department.

- 2) Test data regarding the strength of all equipment certified by a *one-factor-model*, which has been prepared and verified by a recognized independent testing laboratory, demonstrating that the anchor and all tieback equipment meets the requirements of Section 870.6.0. Each piece of equipment must be tested a minimum of three times and shown to meet the requirements of section 870.6.0. Double headed anchors must be tested for the combined 870.0.

- 3) Information as to the types of soil the anchor is certified to be installed in, and instructions as to the method of installation. Such instructions shall accompany all equipment each ground anchor. The instructions for installation must be consistent with the testing of the equipment especially with regard to the loads and depth of installation of ground anchors. The instructions for concrete anchors must specify the distance from the edge of the concrete and the maximum spacing distance from the edge of the concrete and the compressive strength of the concrete. A copy of the drawings and specifications for the anchors must be submitted prior to the issuance of approval.

- i) Each anchor shall be permanently marked with an identification number that is visible when the equipment is installed.
- b) Individual Pre-approvals. An individual home owner, dealer, or installer who wishes to tie down a vehicle home with a unique system or materials different from one approved under subsection (a) above must submit all such information on material specifications, design, equipment, and system design to the Department for approval. The Department will review the information and, if approved, issue a Pre-approval of Plan Approval. The Pre-approval shall remain in effect for a period of 12 months from the date of approval. Approval of Department approval to any installer upon request. Evidence of Department approval by the letter of approval from the Department shall be submitted to the Department.

- b) **Individual Review Approval.** An individual core owner, dealer, installer or wishes to tie down a mobile home with a unique system or materials different from one approved under subsection (a) above must submit all such information on material specifications, assembly of equipment, and system design to the Department for approval. The approval will be based upon the criteria specified in section 970.60.

- c) Evidence of Plan Approval. The tiedown manufacturer shall present evidence of Department approval to any installer upon request. Approval shall be evidenced by the letter of approval from the

DEPARTMENT OF PUBLIC HEALTH
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708/799-2300.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 870.60 Equipment Widened Standards and Specifications

EQUIPMENT:

- a) The materials shall be capable of resisting a force of 3,150 pounds with no more than 3 percent elongation and shall withstand at least 4,725 pounds without failure. Failure shall be considered to have occurred when the material is stretched beyond its elastic limit resulting in permanent deformation or fracture.
- b) All cable ends shall be secured with at least two 1/2" U bolt type clamps or other fastening device.
- c) Anchor equipment and ties shall be weather resistant. Weather resistance shall be at least equal to that provided by a coating of zinc on steel of not less than 7.10 ounces per square foot of surface.
- d) Ties must terminate with a D-ring, bolt or other tensioning device that will not lower the material strength below that stated in subsection (a) above.
- e) Sharp edges on the mobile home that would tend to cut the cable or strap (whether the strap is in the installation) when the cable is buffered by the wind must be protected by a thimble or other device that will prevent such cutting.
- f) Each second anchor, when installed, shall be capable of resisting a working load at least equal to 3,150 pounds in the direction of the tie plus a 50 percent overload (4,725 pounds) without failure. Double headed anchors must resist the vertical and horizontal loads simultaneously. Failure shall be considered to have occurred when the point of connection between the tie and anchor moves more than two inches at 4,725 pounds in the vertical or horizontal direction or the vertical or horizontal movement is not at the point where the tie attaches to the anchor.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 870.70 Administrative Hearings Hearing

Any request for a hearing and the conduct for such hearing shall be governed by the Illinois Department of Public Health Rules of Practice and Procedures in Administrative Hearings (77 Ill. Adm. Code 100).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH
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Section 870.70 TABLE A Minimum Number of Ties Required Per Side

Length of Home (Feet)	Single Section		Multi-Section Double-Wides	
	Vertical Ties	Diagonal Ties	Vertical Ties	Diagonal Ties
32-50	2	2	2	2
51-75	2	3	3	3
76-	2	4	4	4

CAUTION:--See Section 899.0300--Post-Header

Notes

1. No vertical ties required for multi-section homes.
2. In addition to the above, a minimum of two vertical ties shall secure room expansion structures.
3. See Section 870.61(G) if the home is placed on a permanent foundation.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Income Tax2) Code Citation: 96 Ill. Adm. Code 1003) Section Numbers: Proposed Action:
100-3770 Amendment4) Statutory Authority: The Illinois Income Tax Act [35 ILCS 5]

5) A Complete Description of the Subjects and Issues Involved: Sections 203(a)(1)(N), 203(b)(2)(J), 203(c)(1)(K), and 203(d)(1)(G) of the Illinois Income Tax Act allow the subtraction from federal income in arriving at Illinois base income of amounts exempt from taxation by virtue of Illinois law, the Illinois or U.S. Constitutions, or by reason of U.S. treaties or statutes. P.A. 99-460 added additional language to these provisions concerning bond premium amortization. This rulemaking adds to the rule the statutory language added by P.A. 99-460. P.A. 99-460 also added bonds issued by the Southwestern Illinois Development Authority to the list of bonds the interest of which is exempt from Illinois income taxation and as a result these bonds are added to subsection (1) of the rule. The rulemaking also corrects some typographical errors and omissions made when the rule was originally adopted.

6) Will this proposed rule replace an emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed amendment contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers Proposed Action IL Register Citation

100-9505 New Section 4/26/96, 20 Ill. Reg. 6004

100-2330 Amendment 6/21/96, 20 Ill. Reg. 8271

100-3710 New Section 7/19/96, 20 Ill. Reg. 9488

10) Statement of Statewide Policy Objectives: This rulemaking does not create a state mandate, nor does it modify any existing state mandates.

11) Time, Place, and Manner in which interested persons may comment on this rulemaking: Persons wishing to comment on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Keith Staats
Associate Chief Counsel (Income Tax)
Illinois Department of Revenue

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Legal Services Office
101 West Jefferson
Springfield, Illinois 62708
Phone: (217) 782-7055

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Any small business that does business in the State of Illinois.

B) Reporting, bookkeeping, or other procedures required for compliance: This rulemaking requires no new reporting, bookkeeping or other procedures for compliance.

C) Types of professional skills necessary for compliance: No new professional skills are required by this rulemaking.

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE

CHAPTER 1: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section 100.2000 100.2050	Introduction Net Income (ITPA Section 202)
SUBPART B: CREDITS	
Section 100.2100 100.2150 100.2200 100.2210 100.2215 100.2220 100.2230 100.2240	Replacement Tax Investment Credit Prior to January 1, 1994 (ITPA 201(e)) Training Expense Credit (ITPA 201(g)) Research and Development Credit (ITPA 201(f)) Investment Credit: Enterprise Zone (ITPA 201(f)) Jobs Tax Credit: Enterprise Zone and Foreign Trade Zone or Sub-Zone (ITPA 201(g)) Investment Credit: High Impact Business (ITPA 201(h)) Credit Against Income Tax For Replacement Tax (ITPA 201(i)) Research and Development Credit (ITPA 201(k)) Tax Credits for Coal Research and Coal Utilization Equipment (ITPA 206) Credit for Residential Real Property Taxes (ITPA 208)
Section 100.2180	Credit for Residential Real Property Taxes (ITPA 208)
SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS OCCURRING PRIOR TO DECEMBER 31, 1986	
Section 100.2200 100.2210 100.2220 100.2230 100.2240	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (ITPA Section 202) - Scope Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (ITPA Section 202) - Definitions Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (ITPA Section 202) - Current Net Operating Losses: Offsets Between Members Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (ITPA Section 202) - Carryovers Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (ITPA Section 202) - Carryovers

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Section 100.2250	Business Group: (ITPA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (ITPA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back from a Combined Apportionment Year
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SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER DECEMBER 31, 1986

Section 100.2300 100.2310 100.2320 100.2330 100.2340 100.2350	Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986 Computation of the Illinois Net Loss Deduction Determination of the Amount of Illinois Net Loss Carryovers Illinois Net Loss Carrybacks and Net Loss Carryovers Illinois Net Loss Deductions of Corporations That are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns Illinois Net Loss Deductions of Corporations that are Members of a Unitary Business Group: Changes in Membership
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SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section 100.2470	Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (ITPA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(C))
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SUBPART F: BASE INCOME OF INDIVIDUALS

Section 100.2590	Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers
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SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

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100.3350 Property Factor (IITA Section 304)
100.3360 Payroll Factor (IITA Section 304)
100.3370 Sales Factor (IITA Section 304)
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100.5000 Time for Filing Returns: Individuals (IITA Section 505)
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100.7010 Compensation Paid in this State (IITA Section 701)
100.7020 Transacting Business Within this State (IITA Section 701)
100.7030 Payments to Residents (IITA Section 701)
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 100.7210 Quarterly Returns Filed on an Annual Basis (IITA Section 704)
 100.7220 Time for Filing Returns (IITA Section 704)
 100.7230 Payment of Tax Deducted and Withheld (IITA Section 704)
 100.7240 Correction of Underwithholding or Overwithholding (IITA Section 704)

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 100.9320 Restrictions on Notices of Deficiency (IITA Section 905)
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SUBPART CC: LETTER RULING PROCEDURES

Section 100.9800 Letter Ruling Procedures

APPENDIX A Business Income of Persons Other Than Residents

TABLE A Example of Unitary Business Apportionment
 TABLE B Example of Unitary Business Apportionment for Groups which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act (35 ILCS 5) and authorized by Section 1401 of the Illinois Income Tax Act (35 ILCS 5-1401).

SOURCE: Filed July 11, 1971, effective July 21, 1971; amended at 2 Ill. Reg. 49, P. 81, effective November 23, 1974; amended at 5 Ill. Reg. 913, effective December 1, 1981; amended at 11 Ill. Reg. 1617, effective April 11, 1981; amended at 11 Ill. Reg. 1632, effective April 11, 1981; amended at 5 Ill. Reg. 4837, effective May 7, 1981; amended at 5 Ill. Reg. 1795, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 1274, effective November 13, 1981; amended at 5 Ill. Reg. 1374, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 23, 1981; amended at 6 Ill. Reg. 7701, effective July 26, 1982; amended at 5 Ill. Reg. 399, effective December 23, 1982; codified at 9 Ill. Reg. 19574, amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 10 Ill. Reg. 535, effective December 1, 1985; amended at 11 Ill. Reg. 7913, effective April 28, 1986; amended at 11 Ill. Reg. 1951, effective November 11, 1986; amended at 11 Ill. Reg. 2191, effective December 15, 1986; amended at 11 Ill. Reg. 935, effective December 24, 1986; amended at 11 Ill. Reg. 3250, effective January 20, 1987; amended at 11 Ill. Reg. 12110, effective July 9, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 1865, effective February 25, 1988.

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amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1989; amended at 12 Ill. Reg. 13077, effective August 1, 1989; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10982, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 32, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 5869, effective June 9, 1993; amended at 17 Ill. Reg. 14189, effective August 9, 1993; rescinded at 17 Ill. Reg. 14189, amended at 17 Ill. Reg. 14632, effective November 1, 1993; amended at 17 Ill. Reg. 19666, effective November 9, 1993; amended at 18 Ill. Reg. 10082, effective January 13, 1994; amended at 18 Ill. Reg. 10082, effective January 28, 1994; amended at 18 Ill. Reg. 10082, effective May 1, 1994; amended at 19 Ill. Reg. 18099, effective February 6, 1995; amended at 19 Ill. Reg. 5841, effective March 31, 1995; amended at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6281, effective May 7, 1996; amended at 20 Ill. Reg. _____, effective _____.

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section 100-2.170 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (117A Sections 201(a)(2)(N), 201D(2)(J), 201C(2)(K) and 203(d)(2)(C))

- a) In calculating base income, taxpayers ~~are~~^{are not} entitled to subtract ~~from base income~~^{from taxable income} an amount equal to all amounts included in such total which are exempt from taxation by this State either by reason of its statutes of Constitution or by reason of the Constitution, treaties or statutes of the United States, ~~provided that, in the case of any statute of this State, their exemption is derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization (117A 201(a)(2)(N)).~~ There are also provisions of Illinois law that exempt the income of certain obligations of State and local governments from Illinois income taxation (see subsection (c), below). Obligations of the United States, A federal statute exempting stocks and obligations of the United States Government, as well as the interest on the obligation(s), from state income taxation (see 31 U.S.C.A. 311(a)).
- b) (1) Obligations of the United States are those obligations issued "to secure credit to carry on the necessary functions of government." Smith v. Davis 134 Ill. 323 Ill. 119, 89 U. S. 107, 113, 45 S. Ct. 157, 161. The exemption is aimed at protecting the "borrowing" and "Supremacy" clauses of the

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Constitution. Society for Savings v. Bowers (1955), 319 U.S. 133, 114, 9 U. S. 2d 950, 955, 75 S. Ct. 407, 608; Siberia v. Smith 495, 496, 26 S. Ct. 285, 266.

- A) Tax-exempt credit instruments possess the following characteristics:
 - i) they are written documents,
 - ii) they bear interest,
 - iii) they are binding promises by the United States to pay specified sums at specified dates, and
 - iv) they have congressional authorization which also pledges the faith and credit of the United States in support of the promise to pay. Smith v. Davis, supra.
- B) A governmental obligation that is secondary, indirect, contingent, such as a guaranty of a principal amount of an obligation, is not a "governmental obligation" of the type and interest under 31 U.S.C. Section 1224(a) 1144(f), Rockford Life Ins. Co. v. Department of Revenue, 107 S. Ct. 2312 (1987).

- 2) Based on the above, the following types of income are exempt under 31 U.S.C.A. Section 1141(a):
 - A) Interest on U.S. Treasury bonds, notes, bills, certificates, and savings bonds.

- B) Income from USA Public Building Trust Participation Certificates: First Series, Series A through G; Second Series, Series F; Third Series, Series C; Fourth Series H and I.

- C) Income exempted by reason of other federal statutes. Federal statutes provide exemption from state income taxation with respect to various specifically named types of income. Following is a list (intended to be illustrative) of exempt income and the specific statutes to which each from relates:
 - 1) Banks for Cooperatives - Income from notes, debentures, and other obligations issued by Banks for Cooperatives (12 U.S.C.A. 2114).

- 2) Commodity Credit Corporation - Interest derived from bonds, notes, debentures, and other similar obligations issued by Commodity Credit Corporation (15 U.S.C.A. 112a-5).

- 3) Farm Credit System Financial Assistance Corporation (Financial Assistance Corporation) - Income from notes, bonds, debentures, and other obligations issued by the Financial Assistance Corporation (12 U.S.C.A. 2274b-1(b)).

- 4) Federal Deposit Insurance Corporation - Interest derived from Federal deposit insurance Corporation's other obligations issued by Federal deposit insurance Corporation (12 U.S.C.A. 1925).

- 5) Federal Reserve Bank - Income from consolidated system-wide Federal Reserve Bank's bonds, debentures, and other obligations issued jointly and severally under 12 U.S.C.A. 2153 by Banks of the Federal Reserve and

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- Credit System (12 U.S.C.A. 2023); 12 U.S.C.A. 207; 12 U.S.C.A. 208 and U.S.C.A. 209. Interest derived from notes, debentures, bonds and other such obligations issued by Federal Home Loan Banks and from consolidated Federal Home Loan bonds and debentures (12 U.S.C.A. 1433).
- 7) Federal Intermediate Credit Banks - Income from notes, debentures, bonds, and other obligations issued by Federal Intermediate Credit Banks (12 U.S.C.A. 2079).
- 8) Federal Land Banks and Federal Land Bank Association - Income from notes, debentures, bonds, and other obligations issued by Federal Land Banks and Federal Land Bank Associations (12 U.S.C.A. 2355).
- 9) Federal Savings and Loan Insurance Corporation - Interest derived from notes, bonds, debentures, and other such obligations issued by Federal Savings and Loan Insurance Corporation (12 U.S.C.A. 1755).
- 10) Financing Corporation (FCOI) - Income from obligations issued by the Financing Corporation (12 U.S.C.A. 1414(e)(9)).
- 11) General Insurance Fund
- A) Interest derived from debentures issued by General Insurance Fund under the War Housing Insurance Law (12 U.S.C.A. 1739(d)); or
- B) Interest derived from debentures issued by General Insurance Fund to acquire rental housing projects (12 U.S.C.A. 1747(g)); or
- C) Interest derived from Armed Services Housing Mortgage Insurance debentures issued by the General Insurance Fund (12 U.S.C.A. Section 1748(f)).
- 12) Guam - Interest derived from bonds issued by the government of Guam (48 U.S.C.A. 1713a). This income is not presently included back to Federal taxable income. Under Illinois law, it must be added back to Federal taxable income and then claimed as a subtraction on an Illinois income tax return.
- 13) Mutual Mortgage Insurance Fund - Income from such debentures as are issued in exchange for property covered by mortgages insured after February 3, 1938 (12 U.S.C.A. 1710(d)). This income is not presently included in Federal taxable income. Under Illinois law, it must be added back to Federal taxable income and then claimed as a subtraction on an Illinois income tax return.
- 14) National Credit Union Administration Central Liquidity Facility - Income from the bonds, debentures, and other obligations issued on behalf of the Central Liquidity Facility (12 U.S.C.A. 1954(b)).
- 15) Production Credit Association - Income from notes, debentures, and other obligations issued by Production Credit Association (12 U.S.C.A. 2098).
- 16) Puerto Rico - Interest derived from bonds issued by the

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- Government of Puerto Rico (48 U.S.C.A. 745). This income is not presently included in Federal taxable income. Under Illinois law, it must be added back to Federal taxable income and then claimed as a subtraction on an Illinois income tax return.
- 17) Railroad Retirement Act - Annuity and supplemental annuity payments as qualified under the Railroad Retirement Act of 1974 (45 U.S.C.A. 231m). Please be sure to use the line specified on your Illinois return for this item.
- 18) Railroad Unemployment Insurance Act - Unemployment benefits paid pursuant to the Railroad Unemployment Insurance Act (45 U.S.C.A. 321e).
- 19) Resolution Funding Corporation - Interest from obligations issued by the Resolution Funding Corporation (12 U.S.C.A. 2418(f)(1)(A)).
- 20) Special Food Service Program - Assistance to children under the Special Food Service Program (42 U.S.C.A. 1760(e)).
- 21) Student Loan Marketing Association - Interest derived from obligations issued by the Student Loan Marketing Association (20 U.S.C.A. 1097-2(n)(221)).
- 22) Tennessee Valley Authority - Interest derived from bonds issued by the Tennessee Valley Authority (16 U.S.C.A. 431n-1(d)).
- 23) United States Postal Service - Interest derived from obligations issued by the United States Postal Service (39 U.S.C.A. 2005(d)(1)).
- 24) Virgin Islands - Interest derived from bonds issued by the Government of the Virgin Islands (48 U.S.C.A. 1510(b)(1)(A)). This income is not presently included in Federal taxable income. Under Illinois law, it must be added back to Federal taxable income and then claimed as a subtraction on an Illinois income tax return.
- d) Distribution of income from mutual funds (mutual funds). Taxpayers may subtract income received from any of the obligations listed in subsections (b) and (c) above, even if the obligations are owned indirectly through owning shares in a mutual fund.
- 1) If the fund invests exclusively in these state tax exempt obligations, the entire amount of the distribution (income) from the fund may be subtracted.
- 2) If the fund invests in both exempt and non-exempt obligations, the amount represented by the percentage of the distribution that the mutual fund identifies as exempt may be subtracted.
- 3) If the mutual fund does not identify an exempt amount or percentage, taxpayers may figure the subtraction by multiplying the distribution by the following fraction: $\frac{\text{Amount invested in tax-exempt obligations}}{\text{Total amount invested in all obligations}}$. The result of this calculation amounts to figure the fund's total investment. Use the year-end remained constant throughout the year. If the percentage ratio has not remained constant, take the average of the ratios from

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- e) the fund's quarterly financial reports.
- e) Getting a refund of tax you already paid. If you paid Illinois income tax on these tax tax exempt distributions, you may file an amended return (IS-1040-X) to claim a refund for any year still within the statute of limitations.
- f) Interest on obligations of state and local governments. Income from state and local obligations is not exempt from Illinois income tax except where authorizing legislation adopted after August 1, 1993, specifically provides for an exemption. To date, authorizing legislation has been enacted for income from these exempt bonds as listed below. Taxpayers seeking to show income from these exempt bonds as an addition and then as a subtraction on the Illinois income tax return. Income from these bonds is not exempt if the bonds are owned indirectly through owning shares in a mutual fund.
- Notes and bonds issued by the Illinois Housing Development Authority (except housing-related commercial facilities notes and bonds) (10 ILCS 3805/31).
 - Bonds authorized pursuant to the Export Development Act of 1983 (former Ill. Rev. Stat. 1991, ch. 127, par. 2513, repealed by P.A. 87-860, effective July 1, 1992).
 - Bonds issued by the Illinois Development Finance Authority pursuant to Sections 7.50 - 7.61 (Venture Fund and Infrastructure Bonds) (10 ILCS 3505/7.61).
 - Bonds and notes issued by the Quad Cities Regional Economic Development Authority, and the authority determines (70 ILCS 5102/1-15.15, and 5102/1-15.16).
 - College Savings Bonds issued under the General Obligation Bond Act in accordance with the Baccalaureate Savings Act (110 ILCS 920/7).
 - Bonds issued by the Illinois Sports Facilities Authority (White Sox Bonds) (70 ILCS 3205/15).
 - Bonds issued on or after September 2, 1988, pursuant to the Higher Education Student Assistance Act (110 ILCS 347/145-947) (transferred from 105 ILCS 9/30-15.18 by P.A. 87-997).
 - Bonds issued by the Illinois Development Finance Authority under the Assets Attainment Finance Act (10 ILCS 3510/4).
 - Bonds and notes issued under the Rural Bond Bank Act (30 ILCS 360/3-21).
 - Income earned in investments made pursuant to the Home Ownership Made Easy Program (10 ILCS 35/51.1-59.9).
 - Bonds issued pursuant to Sections 120 ILCS 3505.7-86 (595-786).
 - Up to \$2,000 of income derived by individuals from investments made in accordance with College Savings Programs established under former Section 30-15.3a (105 ILCS 9/30-15.3a).
 - Bonds issued by the Quad Cities Interstate Metropolitan Authority under the Quad Cities Interstate Metropolitan Authority Act (15 ILCS 35/110).

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- Bonds issued by the Southwestern Illinois Development Authority pursuant to the Southwestern Illinois Development Authority Act (70 ILCS 920/7.31).
- Other income exempt from Illinois income taxation by reason of Illinois statutes:
 - Income earned by certain trust accounts established under the Illinois Pre-Need Cemetery Sales Act (815 ILCS 390/76).
 - Income from the Illinois Pre-Need Cemetery Sales Act Provides that: because it is not known at the time of deposit or at the time that income is earned on the trust account to whom the principal and the accumulated earnings will be distributed, for purposes of determining the Illinois Income Tax due on these trust funds, the principal and any accrued earnings or losses relating to each individual account shall be held in suspense until the final determination is made as to whom the account shall be paid.
 - Income in the form of education loan repayments made for primary care physicians who agree to practice in designated shortage areas for a specified period of time under the terms of the Family Practice Residency Act (110 ILCS 935/4-10).
 - Income earned by nuclear decommissioning trusts established pursuant to Section 8-508.1 of the Public Utilities Act (220 ILCS 409/31). These trusts decommissioning trusts are established to hold the proceeds of a bank or financial institution established to hold the decommissioning funds provided pursuant to Section 8-508.1(b)(2) of the Public Utilities Act for the eventual purpose of paying decommissioning costs, which shall be separate from all other accounts and assets of the public utility establishing the trust. (220 ILCS 5/8-508.1(a)(3))
 - Income not exempt from Illinois income taxation. The following types of income are not exempt from Illinois income taxation:
 - Income from securities commonly known as GNA "Pass-Through Securities" and also known as GNA "Mortgage-Backed Securities" issued by approved issuers under 12 U.S.C.A. 1721(g) and guaranteed by GNA under 12 U.S.C.A. 1721(g) (Rockford Life Insurance Co. v. Department of Revenue, 112 Ill.2d 174, 452 N.E.2d 1279 (1986), cert. den. June 2, 1986) and income from debentures, notes, and bonds issued by the Federal National Mortgage Association including mortgage-backed bonds issued under 12 U.S.C.A. 1721(g) (U.S.C.A. 1721(g) and guaranteed by GNA under 12 U.S.C.A. 1721(g)).
 - Accumulated interest on Internal Revenue Service tax refunds. Illinois Department of Revenue Ruling No. 96-9610, dated July 11, 1986, citing Gladden Co. v. Gladden, 151 Ohio St. 344, 86 N.E. 2d 1, 9 A.L.R. 2d 515 (1943).
 - Income from U.S. securities acquired by a taxpayer under a repurchase agreement ("repo") with a bank or similar financial organization. The Department takes the position that, for income tax purposes, such agreements are generally to be treated as

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loans. That is, the taxpayer "loans" money to the bank and receives interest in return. The securities subject to repurchase by the bank serve as collateral for the loan. The bank remains legally entitled to receive the interest payments from the issuing authority and remains the actual owner of the securities. Therefore, any tax benefit attributable to the "exempt" income paid by the issuing authority accrues to the bank and not to the investor.

1) Method for computing the subtraction of exempt income. The Department explains that certain taxpayers may elect an item of exempt income that is not specifically listed in the Act. If the taxpayer must be sure that he or she has included the item in Illinois ~~base~~ income. Some tax-exempt items are "automatically" included in base income because they are included in Federal adjusted gross income, which is a part of base income. Interest on U.S. Treasury notes is not in this category. Other exempt items must be included as an addition on the Illinois tax return in figuring base income. In other words, the taxpayer must list certain tax-exempt items as additions and then as subtractions in figuring base income. Interest on the state and local government bonds described in subsection (f) above is in this category.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

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|---|------------------|--|
| 1) Heading of the Part: Regulations under the Illinois Securities Law of 1953 | | |
| 2) Code Citation: 14 Ill. Adm. Code 130 | | |
| 3) Section Numbers: | Proposed Action: | |
| 130.100 | Amend | |
| 130.110 | Amend | |
| 130.130 | New | |
| 130.135 | Amend | |
| 130.141 | New | |
| 130.142 | Amend | |
| 130.190 | Amend | |
| 130.200 | Amend | |
| 130.210 | Amend | |
| 130.211 | New | |
| 130.220 | Amend | |
| 130.370 | Repeal | |
| 130.420 | New | |
| 130.441 | Amend | |
| 130.510 | Amend | |
| 130.525 | New | |
| 130.530 | Amend | |
| 130.540 | Amend | |
| 130.610 | Amend | |
| 130.710 | Amend | |
| 130.810 | Amend | |
| 130.811 | Repeal | |
| 130.820 | Amend | |
| 130.822 | Amend | |
| 130.825 | Amend | |
| 130.829 | Amend | |
| 130.840 | Amend | |
- 4) Statutory Authority: 915 ILCS 5
- 5) A Complete Description of the Subjects and Issues Involved:
- Section 130.100 - Amended to reflect the current addresses of the Chicago and Springfield offices of the Securities Department.
- Section 130.110 - Amended to decrease four fees, increase one fee and clarify the amount of the payment of fees.
- Section 130.130 - Amended to exclude an additional Section of the Act due to an amendment to the Act.
- Section 130.135 - Added to recognize the electronic registration and

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renewal of investment company products.

Section 130.141 - Amended to identify the documents.

Section 130.142 - Amended to identify the exhibits.

Section 130.190 - Amended to correct language and make it gender neutral.

Section 130.200 - Amended to provide for the current citation of the Illinois Securities Law of 1953, clarify the definitions of controlling person and persons, added the definition of SRD (Securities Registration Depository) and nonaccredited investors and make technical changes.

Section 130.210 - Amended to conform with Act and make technical changes.

Section 130.211 - Added to clarify the term "offer" as it relates to the Internet.

Section 130.220 - Amended to clarify the term "regularly engaged in securities sales activities".

Section 130.370 - Repealed due to an amendment to the Act.

Section 130.420 - Added to provide an exemption under Section 4(D) of the Act.

Section 130.441 - Amended to simplify the language and eliminate the requirement that a person be in existence for at least nine months.

Section 130.510 - Amended to conform to the Act, as amended, and to simplify filing requirements.

Section 130.525 - Added to provide for a uniform filing procedure for certain small issuers.

Section 130.538 - Amended to simplify and clarify the language.

Section 130.540 - Amended to correct language and clarify who may preside at a hearing.

Section 130.610 - Amended to conform to the Act, as amended, and to simplify filing requirements.

Section 130.710 - Amended to conform to the Act, as amended, and to simplify filing requirements.

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Section 130.810 - Amended to conform to the Act, as amended, and to simplify filing requirements.

Section 130.811 - Repealed as Section 130.805 makes the exemption self-executing.

Section 130.820 - Amended to conform to the Act, as amended.

Section 130.822 - Amended to recognize the Series 66 Examination.

Section 130.825 - Amended to correct a typographical error and formalize an office position.

Section 130.829 - Amended to delete unnecessary language.

Section 130.840 - Amended to conform to the Act, as amended, and to simplify the filing requirements.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: To update the provisions of the Illinois Securities Law of 1953 and Amendments thereto.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Michael A. Chismar
Illinois Securities Department
Lincoln Tower, Suite 200
520 South Second Street
Springfield IL 62701
(217) 524-9040

All comments must be in writing.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Some of the applicants or registrants may be small securities dealers, investment advisers or issuers.

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B) Reporting, bookkeeping or other procedures required for compliance: This proposed rulemaking reduces the filing requirements of applicants and registrants.

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rule was not included in any of the 2 most recent agendas because: To enact amendments to the Illinois Securities Law of 1953.

The full text of the Proposed Rules begins on the next page:

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NOTICE OF PROPOSED AMENDMENT

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESSES
CHAPTER 1: SECRETARY OF STATE

PART 130

REGULATIONS UNDER ILLINOIS SECURITIES LAW OF 1953

SUBPART A: RULES OF GENERAL APPLICATION

Section
130.100
130.101
130.110
130.120
130.130
130.140
130.150
130.160
130.170
130.180
130.190

Business Hours of the Securities Department
Computation of Time
Payment of Fees
Place of Filing
Date of Filing
Registration of Securities under Section 5 of 7 of the Act Utilizing
Investment
Requirements as to Proper Form
Additional Information
Additional Exhibits
Information Unknown or Not Reasonably Available
Requirements as to Paper, Printing, and Language
Number of Copies--Signatures
Provisions for Granting of Variance from Rules

SUBPART B: DEFINITIONS

Section
130.200
130.201
130.202
130.205
130.210
130.211
130.215
130.216
130.220

Definitions of Terms Used in the Act and the Rules
Definition of the Term "Investment Contract", as Used in Section 2.1 of the Act
Definition of the Term "Fractional Undivided Interest", as Used in Section 2.1 of the Act
Section 2.1 of the Act with Reference to Oil and/or Gas Leases, Rights or Royalties
Definition of the Term "Issuer" as Used in Section 2.2 of the Act as Applied to Fractional Interests in Oil, Gas and Other Mineral Leases, Rights or Royalties
Definition of Acts Not Constituting a "Sale" or "Offer" as Used in Section 2.5 of the Act
Definition of Acts Not Constituting an "Offer" of Securities under Section 5, 6 or 7 of the Act
Definition of "Commission From an Underwriter or Dealer Not in Excess of the Usual and Customary Distributors' or Sellers' Commissions", as Used in Section 2.6 of the Act for Certain Transactions
Definition of "Participates" and "Participation" as Used in Section 2.6 of the Act in Relation to Certain Transactions
Definition of "Regularly Engaged in Securities Sales Activities", as

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Used in Section 2.9 of the Act
 130.221 Definition of "Investment Fund Shares" as Used in Section 2.15 of
 130.225 the Act in Relation to Certain Issues
 130.233 Definition of the Phrase "Promissory Note or Draft, Bill of Exchange
 or Bankers' Acceptance" as Used in Section 3(1) of the Act
 130.234 Definition, For Certain Purposes, of the Terms "Employee
 Security-Purchase Plan", "Employee Profit-Sharing Trust or Plan",
 "Employee Pension Trust or Plan", as Used in Section 3.N and Section
 3.O of the Act
 130.235 Definition, For Certain Purposes, of the Terms "Employee
 Profit-Sharing Trust or Plan", "Employee Pension Trust or Plan", as
 Used in Section 3.O of the Act
 130.241 Definition of the Term "Institutional Investor" under Sections 4C
 and 4D of the Act
 130.242 Use of the Term "Financial Institution" under Sections 4C and
 4D of the Act
 130.244 Provisions of "Issuer Required to File Reports Pursuant to the
 Provisions of Section 13 or Section 15(d) of the Federal 1934 Act"
 with Respect to Certain Foreign Private Issuers and Reports
 Required to be Filed at Regular Intervals Pursuant to the Provisions
 of Section 13 or Section 15(d) as Used in Section 4(F)(1) of the
 Act
 130.245 Definition of the Terms "Balance Sheet" and "Income Statement", as
 Used in Section 4.F of the Act
 130.246 Definition of the Terms "Residents of this State", "Aggregate Sales
 Price" and "Sales Made in Reliance Upon the Exemption" Under Section
 4(G) of the Act and "General Advertising or General Solicitation"
 Under Sections 4(G), 4(H), 4(M) and 4(R) of the Act
 130.247 Definition of the Term "Public" as Used in Section 4(G)(4) of the
 Act
 130.248 Definition of the Terms "Offers for Sale" and "Solicitations of
 Offers to Buy", as Used in Section 4.L of the Act
 130.250 Definition, For Certain Purposes, of the Terms "Commissions,
 Remuneration or Discounts", as Used in Section 4 and Section 5 of
 the Act
 130.251 Definition of the Term "Maximum Aggregate Price", as Used in Section
 5 of the Act
 130.270 Definition of Certain Persons Not Considered to Be Dealers Under
 Section 4.7 of the Act
 130.280 Definition of the Term "Branch Office", as Used in Section 9 of
 the Act
 130.282 Definition, For Certain Purposes, of the Term "Officers", as Used in
 Section 2.9 and Section 3.9(16) of the Act
 130.285 Definition, For Certain Purposes, of the Terms "Inequitable", "Tend
 to Work a Fraud or Deceit", "Inequitable Practice in the Sale of
 Securities", and "Fraudulent Business Practices", as Used in Section

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8 and Section 11 of the Act
 130.291 Definition of the Terms "Fraudulent" and "Work or Tend to Work a
 Fraud or Deceit" as Used in Section 11 and Section 12 of the Act for
 Purposes of the Payment of Completion Costs in Connection with the
 Offer or Sale of Securities Involving an Oil, Gas or Other Mineral
 Lease, Right or Royalty
 SUBPART C: EXEMPT SECURITIES
 130.370 Automated Quotation System Deemed to Have Substantially Equivalent
 Standards for Designation as Required by One or More Exchanges Set
 Forth in Section 3(G) of the Act (Repealed)
 SUBPART D: EXEMPT TRANSACTIONS
 130.410 Uniform Limited Offering Exemption Pursuant to Section 4.D of the
 Act
 130.412 Procedures for Applying for Trading Authorization Pursuant to
 Section 4(F)(2) of the Act
 130.440 Procedures for Filing Reports of Sale under Section 4(G) of the Act
 130.441 Calculation of Number of Persons Under Section 4(G) or 4(M) of the
 Act
 130.442 Report of Sale of Securities pursuant to Section 4(G) of the Act
 130.490 Procedures for Filing Reports of Sale under Section 4.P of the Act
 130.491 Report of Sale of Securities pursuant to Section 4(P) of the Act
 SUBPART E: REGISTRATION OF SECURITIES
 130.501 Title of Securities
 130.502 Financial Statement Requirements
 130.503 Disclaimer of Control
 130.505 Formal Requirements as to Consents
 130.506 Consents Required in Special Cases
 130.507 Application to Dispense with Consent
 130.508 Consent to Use of Material Incorporated by Reference
 130.510 Procedures for Registration of Securities by Coordination under
 Section 3.A 5(A) of the Act
 130.520 Procedures for Registration of Securities by Qualification under
 Section 3(E) of the Act
 130.523 Procedures for Registration of Securities by Qualification under
 Section 3.B(7) of the Act, Small Company Offering Registration
 (SCOR) on Form 3-7
 130.530 Renewal or Registration of Securities Under Section 5(E) of the Act
 130.531 Computation of Fees
 130.532 Registration of Additional Securities pursuant to Section 5(C)(2) of

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the Act
 130.533 Formal Requirements for Amendments Under Section 5 of the Act
 130.534 Powers to Amend or Withdraw Registration Statement
 130.535 Signatures of Amendments
 130.536 Delaying Amendments
 130.538 Withdrawal of Registration Statement, or Amendment or Exhibit Filed Under the Federal 1933 Act.
 130.540 Procedure with Respect to Abandoning Abandoned Registration Statements, Applications for Trading Authorizations and Post-Effective Amendments
 130.550 Additional Fees Under Section 5 of the Act
 130.570 Legibility of Prospectuses
 130.571 Presentation of Information in Prospectuses
 130.572 Permitted or Prohibited Solicitation
 130.573 Permitted or Prohibited Solicitation
 130.574 Incorporation of Certain Information by Reference
 130.575 Form of and Limitation Upon Incorporation by Reference
 130.576 Statement Required in Prospectuses
 130.577 Prospectuses Supplementing Preliminary Material Supplied Previously
 130.578 Application of Amendments to this Part Governing Contents of Prospectuses
 130.581 Statement as to Stabilizing Required in Prospectuses Filed Under Section 3.B of the Act
 130.582 Contents of Prospectus When Two or More Registrations Are in Effect Under Section 3.B of the Act
 130.590 Identifying Statements
 130.591 Requirements as to Appraisals
 130.592 Omission of Substantially Identical Documents
 130.593 Incorporation of Exhibits by Reference

SUBPART F: FACE AMOUNT CERTIFICATE CONTRACTS

Section
 130.600 Preamble
 130.610 Procedures for Registration of Face Amount Certificate Contracts by Coordination Under Section 6(A) of the Act
 130.630 Renewal of Registration of Face Amount Certificate Contracts Under Section 6(F) of the Act
 130.650 Additional Fees Under Section 6 of the Act

SUBPART G: INVESTMENT FUND SHARES

Section
 130.700 Preamble
 130.701 Title of Investment Fund Shares Registered Under Sections 5 or 7 of the Act
 130.710 Procedures for Registration of Investment Fund Shares by Coordination under Section 7(A) of the Act

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130.715 Amendatory Statement for the Registration of Additional Class or Classes or the Reporting of a Change in Organization or Operations Pursuant to Section 7(D) of the Act
 130.730 Renewal of Registration of Investment Fund Shares Under Section 7(G) of the Act
 130.750 Additional Fees Under Section 7 of the Act
 130.771 Acts which "Work or Tend to Work a Fraud or Deceit", in Connection with Offers, Sales or Dispositions of Investment Fund Shares

SUBPART H: REGISTRATION OF DEALERS, SALESPERSONS AND INVESTMENT ADVISERS

Section
 130.805 Exemptions From Registration as an Investment Adviser Under Section 3(A) of the Act
 130.810 Procedures for Registration as a Dealer Under Section 3(B) of the Act
 130.811 Procedures for Perfecting an Investment Adviser Exemption Under Section 2.111(6) of the Act (Repealed)
 130.820 Procedure for Renewal and Withdrawal From Registration as a Dealer
 130.821 Reporting of Dealer Branch Office Location(s) and Required Fees
 130.822 Examinations Deemed Satisfactory for Purposes of Determining Sufficient Knowledge of Each Principal Under Section 8(B)(9)(a) of the Act Prior to Registration as a Dealer
 130.823 Procedure for Requesting Waiver of Dealer, Salesperson or Investment Adviser Examination Requirements
 130.824 Financial Statements to be Filed by a Registered Dealer
 130.825 Records Required of Dealers and Customer Fees
 130.826 Registered Dealer Net Capital Requirement
 130.827 Notification of Materially Adverse Financial Condition Required to be Filed with the Securities Department by a Registered Dealer
 130.828 Investor Protection Requirement of a Dealer Registered Under Section 8 of the Act
 130.829 Examinations Deemed Satisfactory for Purposes of Determining Sufficient Knowledge Under Section 9(C)(7) of the Act for Registration as a Salesperson
 130.840 Procedures for Registration as an Investment Adviser Under Section 8(D) of the Act
 130.841 Reporting of Investment Adviser Branch Office Location(s) and Required Fees
 130.842 Examinations and Education Programs Deemed Satisfactory for Purposes of Determining Sufficient Knowledge for Each Principal Under Section 8(D)(9) of the Act Prior to Registration as an Investment Adviser
 130.844 Statement of Financial Condition and Custody of Client's Cash or Securities or Accepts Pre-payment of Fees in Excess of \$500.00 Per Client and Six (6) or More Months in Advance and Interim Financial Statements

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Section 130.100 Business Hours of the Securities Department

- a) The principal office of the Securities Department at Lincoln Tower, Suite 2300, 520 South Second Street 4th-8th-Spring-Street, Springfield, Illinois 62761 62764, is open each day, except Saturdays, Sundays and holidays, from 8:00 a.m. to 4:30 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Springfield.
- b) An office of the Securities Department at 11 North State Street, Suite 1200 189-Wendish-Street-Spring-4th, Chicago, Illinois 60604 60604 8130 is open each day, except Saturdays, Sundays and holidays, from 8:00 a.m. to 4:30 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Chicago.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 130.110 Payment of Fees

- a) Fees under the Act are as follows:

Section 1.1D Filing Fee	\$100
Section 1.1F 4FF(2) Application Filing Fee	\$1,000
Section 1.1G 4FG Report of Sale Filing Fee	\$25-\$1,000*
Section 1.1P 4FP Offering Sheet Examination Fee	\$300
Report of Sale Filing Fee	\$10-\$100*
Section 5.1A 5FA General Filing or Renewal Fee	\$500-\$2,500**
Filing or Renewal Fee for Shelf Offerings	\$500-\$6,000**
Filing or Renewal Fee for Series Issuers	\$500-\$3,000**
Section 5.1B 5FB General Examination Fee	\$300
General Filing Fee	\$500-\$1,000**
Amendment Examination Fee	\$50 (if not filed under the Federal 1933 Act)
SCOR Examination Fee	\$150

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SCOR Filing Fee	\$250
SCOR Amendment Examination Fee	\$25

Section 5.1C 5FC General Oversale Filing Fee	\$500-\$3,000***
Oversale Filing Fee for Shelf Offerings	\$500-\$5,000***
Oversale Filing Fee for Series Issuers	\$500-\$2,000***

Section 5.1P 5FP Additional fee for renewal of securities 3 business days or less but prior to expiration of registration or renewal	\$100
Additional fee after expiration of registration or renewal (not to exceed one year after the date of expiration of the most recent registration or renewal)	1st-30th day \$500 31st-60th day \$1,000 61st-90th day \$1,500 91st-120th day \$2,000 121st-150th day \$2,500 151st-180th day \$3,000 On or after 181st day \$5,000

Section 5.1H 5FH Additional fee for the failure to file or file timely any required post-registration document	\$50
Additional fee for the failure to file the preliminary notice of SEC effectiveness of filings made on the third through tenth business day after SEC effectiveness	\$100
Additional fee for the failure to file or file timely notice	

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of SEC effectiveness
for filings made after
the tenth day after
SEC effectiveness

most recent registration or
renewal)

11th-30th day \$200
31st-60th day \$200
61st-90th day \$200
91st-120th day \$200
121st-150th day \$200
151st-180th day \$1,000
181st-190th day \$1,200
On or after the
181st day \$2,500

1st-30th day \$500
31st-60th day \$1,000
61st-90th day \$1,000
91st-120th day \$2,000
121st-150th day \$2,500
151st-180th day \$3,000
On or after the
181st day \$5,000

Section 5.1A 4th

Filing
or Renewal Fee
Amendment Filing
Principal Filing
Additional Series,
Types or Classes

\$1,000
\$100

Section 5.1B 6th

Additional fee for the failure
to file or file timely any
required post-registration
document

\$50

Section 5.1B 7th

Examination Fee
Filing or Renewal Fee
Amendment Examination Fee
Amendment Filing Fee
Additional Series, Types or
Classes

\$300
\$1,000
\$50

Transaction Charge

\$100
\$10
1/30th of 1% of average of
quarterly computation of
aggregate principal amount
of securities on deposit

\$100

Additional fee for the failure
to file or file timely notice
of SEC effectiveness
for filings made after
the tenth day after SEC
effectiveness

11th-30th day \$200
31st-60th day \$200
61st-90th day \$200
91st-120th day \$200
121st-150th day \$1,000
151st-180th day \$1,200
On or after the
181st day \$2,500

Section 5.1B 8th

Additional fee for renewal
of securities 3 business
6 days or less but prior
to expiration of registration
or renewal
Additional fee after expiration
of registration or renewal
(not to exceed one year after
the date of expiration of the

\$200

Section 7.1A 7th

Filing or Renewal Fee

\$1,000 plus \$100

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for each series,
class or
portfolio

Amendment-----Filing Fee-----for
Additional-Class-or-Classes

5100

Section 7.1.B.7(d)

Examination Fee
Filing or Renewal Fee

\$300
\$1,000, plus \$100
for each series.

CLASS OF PORTFOLIO

5100

Amendment Examination Fee

Amendment Filing Fee

Amendment Examination Fee

Amendment Examination Fee

Amendment Examination Fee

Amendment Examination Fee

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Amendment Examination Fee

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Required post-registration
document

550

Additional fee for the failure

to file or file timely notice

of SEC effectiveness for

filings made on the third

through tenth business day

after SEC effectiveness

Additional fee for the failure

to file or file timely notice

of SEC effectiveness

for filings made after the

tenth day after SEC

effectiveness

11th-30th day

\$1,000

31st-60th day

\$1,400

61st-90th day

\$600

91st-120th day

\$800

121st-150th day

\$1,000

151st-180th day

\$1,200

On or after the

181st day \$2,500

Section 8

Dealer Filing or Renewal Fee

\$300**** plus \$20 for each

branch office in this State

Dealer fee to report a

change in its form of

organization

Investment Adviser Filing or

Renewal Fee

\$2,000**** plus \$20

for each branch

office in this

State plus a \$10

additional fee for each

branch office in this

State plus a \$10

additional fee for each

branch office in this

State plus a \$10

additional fee for each

branch office in this

State plus a \$10

additional fee for each

branch office in this

State plus a \$10

additional fee for each

branch office in this

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Investment Adviser Fee to report a change in its form of organization

Investment Adviser Examination Fee

Salesperson Filing or Renewal Fee

\$200

\$500

\$100 filing or renewal fee and \$15 949

Securities Audit and Enforcement

Fund fee: all fees may be paid by a single check).

\$250

\$200

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than statement of financial condition or financial statement)

\$250

Section 10

Service of Process (when served upon the Secretary)

\$10

Sections 5.B 549 and 5.C 549

\$10

\$10 plus

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1/10th of the maximum aggregate dollar amount reported therein, but not less than the specified minimum nor more than the specified maximum.

1/20th of 1% of the maximum aggregate price, as defined in Section 130.251 of this Part, but not less than the specified minimum nor more than the specified maximum.

Three times the difference between the initial registration fee paid and the fee required for the entire amount sought to be registered but not less than the specified minimum nor more than the specified maximum

Twice the amount indicated if renewal application is filed within 6 days preceding the expiration of the current registration.

All payments of fees, except for payment of administrative fines under Section 11(B) of the Act as set forth below, shall be made by check, money order, certified state postal note or indicia of forms of electronic transfer of funds payable to the "Secretary of State". No third party check or money order endorsed over to the Secretary of State ("Secretary") shall be accepted as payment of any fee. All payments for administrative fines under Section 11(B) of the Act in excess of \$500, except for a person registered under Section 5, 6, 7 or 8 of the Act, shall be made by United States postal money order, certified check or bank cashier's check.

Any person whose payment of fees is returned to the Securities Department due to insufficient funds or for a similar reason shall pay to the Secretary the amount of fee owed plus an additional fee as set

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on January 31, 1996 1999 [no subsequent amendments or additions].

"Fiscal Year" means the annual accounting period or, if no accounting period has been adopted, the calendar year ending on December 31.

"Futures" and "Futures Contracts" as used in Section 130.270 of this Part mean contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market designated by the CFTC or traded on or subject to the rules of any board of trade located outside the United States, its territories or possessions.

"Futures Commission Merchants" as used in Section 130.270 of this Part means individuals, associations, partnerships, corporations and trusts engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee or secure any trades or contracts that result or may result therefrom.

"Hearing" means a proceeding conducted by the Securities Department in which the rights, privileges, immunities, duties or obligations of any person or party are required by law to be determined by the Secretary only after opportunity for a hearing.

"Hearing Officer" means the designee of the Secretary or the Securities Director who, pursuant to Section 11 of the Act, is designated in the Notice of Hearing to preside at a hearing conducted pursuant to Section 11 of the Act by the Secretary or any person so designated as a substitute hearing officer.

"Identifying Statement" means a written or oral communication or advertisement meeting the requirements of Section 130.210(b)(1) of this Part.

"Insolvency" or "insolvent" means the inability to pay debts and obligations when due or when current liabilities exceed current assets. Any party required by this Part to maintain adequate assets shall file with the Secretary a statement identifying the assets prepared as of a current date and executed and verified by the chief financial officer of the issuer.

"Internal Revenue Code" means the Internal Revenue Code of 1986

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(26 U.S.C. 1-9602), and the Rules and Regulations thereunder, as in effect on January 1, 1996 (no subsequent amendments or additions). 3417-17-1999

"Investor Investors Protection Act of 1970" means the Securities Investor Protection Act of 1970 (15 U.S.C. Sec. 78aaaa et seq.), as in effect on January 1, 1996 (no subsequent amendments or additions). 3417-17-1999

"Majority-Owned Subsidiary" means a subsidiary more than 50% of whose outstanding securities, which represent the right, either then as affected by events of default, to vote for the election of directors, are owned by the subsidiary, its parent and/or one or more of the parent's other majority-owned subsidiaries.

"Material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which there is a substantial likelihood that a reasonable investor would consider it important in deciding upon a course of action to be taken, including but without limitation, purchasing, selling or holding the security or securities involved, or accepting or rejecting an offer or proposal made with regard to any security or securities.

"NASD" means the self-regulatory organization registered under the Federal 1934 Act, as defined in this Section, known as the "National Association of Securities Dealers, Inc."

"Nonaccredited Investor" as used in Section 130.420 of this Part means a person who is not a person set forth in Section 1.0, 1.1, 1.2 or 1.3 of the Act.

"Officer", unless otherwise clarified, refers to the office of the Securities Department of the Secretary of State, and not to any particular address or location.

"Officer" means the president; any vice president in charge of a principal business unit, division or function; the secretary; the treasurer; any principal financial officer, controller or principal accounting officer; any other officer performing a principal policy-making function and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

"Options on Futures" as used in Section 130.270 of this Part means puts or calls on a futures contract traded on or subject to the rules of a contract market designated by the CFTC or traded or subject to the rules of any board of trade located outside the

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United States, its territories or possessions.

"Pacific Coast Stock Exchange, Inc." means the Pacific Stock Exchange, Inc.

"Parent" of a specified person means an affiliate controlling such person directly or indirectly through one or more intermediaries.

"Party" means any person named as a petitioner or a respondent in a hearing conducted by the Securities Department.

"Person" means a natural person an individual, a corporation, a partnership, a limited partnership, a limited liability company, a limited liability limited partnership, an association, a joint stock company, a trust or any unincorporated organization except that as used in this Section, the word "trust" includes only a trust where the interest or the interests of the beneficiary or beneficiaries are a security.

"Predecessor" means a person, the major portion of the business and assets of which another person acquired in a single succession or in a series of related successions in each of which the acquiring person acquired the major portion of the business and assets of the acquired person.

"Preliminary Prospectus" means a document meeting the requirements of Section 130.210(b)(2) of this Part.

"Principal Underwriter" means an underwriter in privity of contract with the issuer of the securities as to which such person is an underwriter.

"Promoter" means

any person who, acting alone or in conjunction with one or more other persons, directly or indirectly takes initiative in founding and organizing the business or enterprise of an issuer; or

any person who, in connection with the founding and organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both, 10% or more of any class of securities of the issuer or 10% or more of the proceeds from the sale of any class of securities of the issuer. However, a person who receives the securities or proceeds either solely as underwriting commissions or solely in consideration of

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property shall not be deemed a promoter within the meaning of this subsection if the person does not otherwise take part in founding and organizing the enterprise.

"Prospectus" means any prospectus, notice, circular, advertisement, letter or communication, written or by radio, television or other communications medium, which offers any security for sale or confirms the sale of any security except that a communication sent or given after the effective date of the registration of the security (other than a prospectus permitted under Section 10(b) of the Federal 1933 Act, as defined in this Section) shall not be deemed a prospectus if it is proved in this Section that the communication was made, and a notice, circular, advertisement, letter or communication in respect to a security shall not be deemed to be a prospectus if it states from whom a written prospectus meeting the requirements of Section 5 of the Act may be obtained and, in addition, does no more than identify the security, state the price thereof, state by whom orders will be executed, and contain such other information as the Secretary by the Sections in this Part seems necessary or appropriate in the public interest and for the protection of investors and, subject to such terms and conditions as may be described therein, may permit.

"Regulated Account" as used in Section 130.270 of this Part means a customer aggregation account subject to 17 CFR Part 1 Sec. 1.20 as in effect on January 1st, 1935, 1939, (no subsequent amendments or additions); provided, however, that, where such regulations do not permit to be maintained in such an account or require to be maintained in a separate regulated account funds or securities in proprietary accounts or funds or securities used as margin for or excess funds related to futures contracts, options on futures or any other instruments subject to CFTC jurisdiction that trade outside the United States, its territories or possessions, the term "regulated account" means such separate regulated account or any other account subject to 17 CFR Part 1 Sec. 1.31 at seq. as in effect on January 1st, 1935, 1939 (no subsequent amendments or additions).

"Registrant" means the issuer of the securities which are the subject of the application for registration.

"Rules" refers to all rules adopted by the Secretary pursuant to the Act.

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"Share" means a share of stock in a corporation or unit of interest in an unincorporated person.

"SEC" means the United States Securities and Exchange Commission.

"Secretary of State" or "Secretary" means the Secretary of State of Illinois.

"Section" refers to a section of this Part unless a reference to the Act is specifically made.

"Securities Department" means the Securities Department of the Office of the Secretary of State.

"Segregated Customer Funds" as used in Section 130.470 of this Part means funds subject to 17 CFR Part I Sec. 1.20 as in effect on January 1, 1996 1999 (no subsequent amendments or editions).

"SPD" means the automated computer registration system for the registration and renewal of investment of securities, investment fund shares and unit investment trust registered under the Federal 1933 Act and Federal 1940 Investment Company Act known as the Securities Registration Depository.

"Significant Subsidiary" means a subsidiary where:
the assets of the subsidiary, or the investments in and advances to the subsidiary by its parent and the parent's other subsidiaries, if any, exceed 1% of the assets of the parent and its subsidiaries on a consolidated basis; or
the sales and operating revenues of the subsidiary exceed 1% of the sales and operating revenues of its parent and the parent's subsidiaries on a consolidated basis.

In determining whether a subsidiary is a significant subsidiary, such a subsidiary shall be considered in the aggregate with any subsidiaries of which it is the parent.

"Subsidiary" of a specified person is an affiliate controlled by such person directly or indirectly through one or more subsidiaries, or a subsidiary of a subsidiary of such person. ("Significant Subsidiary" and "Totally-held Subsidiary".)

"Succession" means the direct acquisition of the assets comprising a going business, whether by merger, consolidation, purchase, or other direct transfer. The term does not include the acquisition of control of a business unless followed by the direct acquisition of its assets. The terms "succeed" and "successor" have the same meaning as "succession".

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"Totally-held Subsidiary" means a subsidiary substantially all of whose outstanding securities are owned by its parent or the parent's other totally-held subsidiaries, and which is not indebted to any person other than its parent and/or the parent's other totally-held subsidiaries in an amount which is material in relation to the particular subsidiary, excepting indebtedness incurred in the ordinary course of business which is not overdue and which matures within one year from the date of its creation, whether evidenced by securities or not.

"Unit Investment Trust" means an investment company which is organized under a similar instrument, agency or custodianship contract or trust instrument, does not have more than five directors and officers, and the assets consist of only securities, each of which represents an undivided interest in unit of specified securities. The term "unit investment trust" does not include a voting trust.

"Unsolicited Transaction" as used in Section 130.470 of this Part means a transaction that is not effected in a discretionary account or recommended to a customer by the futures commission merchant, an associated person of a futures commission merchant, a business affiliate that is controlled by, controlling, or under common control with the futures commission merchant, or an introducing broker that is guaranteed by the futures commission merchant.

b) A Section in this Part which defines a term without express reference to the Act or to this Part or to a portion thereof defines such term for all purposes as used both in the Act and in this Part. Terms defined in the Act and not defined in this Part have the meanings given them in the Act.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

Section 130.210 Definition of Acts Not Constituting a "Sale" or "Offer" as Used in Section 2.5 OF 2.5A of the Act

a) The transmitting, sending or giving to any person or publishing an identifying statement, circular or preliminary prospectus, notice, advertisement, letter, or other communication that contains an "offer" or "sale" as used in Section 2.5 OF 2.5A of the Act, provided that the identifying statement, circular or preliminary prospectus, notice, advertisement, letter, or other communication is used in connection with a security which is the subject of a pending application for registration which is on file with the Securities Department of the Office of the Secretary of State under Section 5 of

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the Act and substantially complies with the provisions of subsection paragraph (b) of this Section 130.220.

- b) For the purpose of this Part, the terms:
- 1) "identifying statement" and "circular" mean a written communication or advertisement or radio or television advertisement meeting the requirements of 17 CFR 230.134 (Rule 134) in effect on January 1, 1935 and 1944 and subsequent amendments or additions under the Federal 1933 Act; and
 - 2) "preliminary prospectus" means a document which contains substantially the information required by the Act to be included in a prospectus meeting the requirements of Section 5 of the Act for the securities being registered, or contains substantially that information except for the omission of information with respect to the offering price, underwriting, discounts or commissions, discounts or commissions to dealers, amounts or proceeds, conversion rates, call prices, or other matters.
- c) The outside front cover page of the preliminary prospectus shall bear, in red ink, the caption "Preliminary Prospectus" the date of its issuance, the following statement printed in type as large as that generally in the body of the prospectus:

"An application for registration relating to these securities has been filed with the Secretary of State of Illinois, but has not yet become effective. Information contained herein is subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the application for registration becomes effective. This prospectus shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities prior to registration under the Illinois Securities Law of 1933."

Or, or in the alternative where applicable, the statement required by regulation 3-6, Section 229.501, Item 501(c)(9) in effect on January 1, 1935 under the Federal 1933 Act and subsequent amendments or additions.

- d) This Section shall not apply when the application for registration is the subject of pending proceedings under Section 11 of the Act or of an order of suspension, denial or prohibition entered under such Section.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 130.211. Definition of Acts Not Constituting an "Offer" of Securities Under Section 3, 6 or 7 of the Act.

- a) Notwithstanding any other provision of the Act or this Part, the

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transmitting or sending of any announcement, offering circular, prospectus or other communication via the nonproprietary, public computer network (commonly known as the Internet) shall not constitute a sale of securities under Section 3, 6 or 7 of the Act. This Section shall be amended to read in effect as follows: "The Act shall not apply to any offer or sale of securities that the securities are not being offered to the residents of this State, and an offer is not otherwise specifically directed to any person in this State by or on behalf of the issuer of the securities."

- b) No sale of the securities shall be made in this State until the securities have been registered under Section 3, 6 or 7 of the Act and a prospectus, offering circular or form 0-7 in its most current form has been delivered to each offeree prior to the sale. Of the securities are exempt from registration under Section 3 of the Act or sold in transactional exemptions set forth under Section 4 of the Act except subsection 3, H or P of Section 4, or subsection M of the Act if any commission or other remuneration is paid or given, directly or indirectly, on account of the sale or sales of securities, the Act shall be excluded.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 130.220. Definition of "Regularly Engaged in Securities Sales Activities", as Used in Section 2.9 of the Act

The term "regularly engaged in securities sales activities" in Section 2.9 of the Act means making more than 10 sales, as defined in Section 2.5 of the Act, within a consecutive 12 month period, or without numerical limitation if no commission, discount or remuneration is paid or given, directly or indirectly, on account of any sale of the securities. For purposes of computing the number of sales, transactions enumerated in Section 4, other than subsection F, of the Act shall be excluded.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUPPORT C: EXEMPT SECURITIES

Section 130.370 Automated Quotation System Deemed to Have Substantially Equivalent Standards for Designation as Required by One or More Exchanges Set Forth in Section 3(c) of the Act (Repealed)

The National Association of Securities Dealers Automated Quotation National Market System shall be deemed for purposes of Section 3(c) of the Act to be an automated quotation system with standards for designation that are substantially equivalent to the standards that are required for listing in one or more of the exchanges set forth in Section 3(c) of the Act.

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(C) If the applicant is not a registered dealer, the name of at least one registered dealer for the securities being registered, except that, in the case of securities being offered on a market or exchange, the name of the dealer or dealers for such securities, as shown on the listing of such securities on the market or exchange, shall be set forth in paragraph 9(b) of the Application. If the securities are being offered on a market or exchange, the name of the registered dealer may be furnished no later than the close of business on the second business day following the commencement of sales of the registered securities, or if no registered dealer is participating in the offering, a description of the method by which the securities being registered will be offered and sold in Illinois in compliance with Section 9 of the Act; and

(D) The filing fee required by Section 5.04(1) of the Act in the form and amount required by Section 130.110 of this Act.

2) The completed Application to Register Securities on Form D-1 shall contain the Application and the underwriting called for by Sections 5.02(1)(c), 5.04(1)(c), and 5.04(1)(d), respectively, of the Act, except that:

A) The time period for filing documents described in the undertaking set forth in paragraph 9(b) of the Application shall be deemed to be the seven calendar days after the forwarding thereof to the SEC;

B) Only amendments to the federal registration statement which amend or supplement the registration statement need be filed pursuant to paragraph 9(b)(1) of the Application; and

C) The applicant otherwise shall be required to comply with the undertakings set forth in paragraph 9 of the Application only to the extent required by the Act and this Part.

3) If, prior to the effective date, there shall have been filed with the Secretary of State an Application for the registration of securities under subsection 5.04(1) of this Section, and the registration of securities under Section 5.04(1) of the Act shall become effective automatically on the effective date, provided that:

1) the application for registration is not then the subject of pending proceedings under Section 11.04(1) of the Act or of an order of suspension, denial or prohibition under Section 11 of the Act; and

2) at least one of the following events shall have occurred on or before the effective date:

A) The Securities Department shall have notified the applicant, in writing (which may be by telegraphic, electronic or facsimile transmission), that such documents and fees conform to the requirements of the Act and this Part;

B) including the date on which all of the documents and fees specified in subsection (a) of this Section have been filed

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with or paid to the Securities Department.

c) If, prior to the effective date, there shall have been filed with the Securities Department an Application for the registration of securities under Section 5.04(1) of the Act, and the registration of securities under Section 5.04(1) of the Act shall take effect on the date that all of the following conditions are satisfied:

1) All of the documents and fees specified in subsection (a) of this Section shall have been filed with or paid to the Securities Department;

2) The application for registration is not then the subject of pending proceedings under Section 11.04(1) of the Act or of an order of suspension, denial or prohibition under Section 11 of the Act; and

3) There shall have been filed with the Securities Department a statement from the applicant, in writing (which may be by telegraphic, electronic or facsimile transmission), that such documents and fees conform to the requirements of the Act and this Part.

A) states that no securities which are part of the offering being registered have been sold in this State; or

B) if securities which are part of the offering being registered have been sold in this State, that sets forth the name and address of each purchaser of such securities, the dollar amount sold, and the exemption or exemptions from registration under Section 3 or 4 of the Act relied upon in making such sale.

4) At least one of the following events shall have occurred:

A) The Securities Department shall have notified the applicant, in writing (which may be by telegraphic, electronic or facsimile transmission), that such documents and fees conform to the requirements of the Act and this Part; or

B) including the date on which all of the documents and fees specified in subsection (a) of this Section have been filed with or paid to the Securities Department; and

5) There shall have been filed with the Securities Department a statement from the applicant, in writing (which may be by telegraphic, electronic or facsimile transmission), dated no earlier than the first business day preceding the date on which the registration under Section 5.04(1) of the Act is to take effect, stating that:

A) The registration statement filed under the Federal 1933 Act, as defined in Section 130.200 of this Part, is then in effect; and

B) registration statement, including any amendments or supplements thereto, then on file with the Securities Department satisfies the requirements of Section 10(a)(1) of the Federal 1933 Act, as defined in Section 130.200 of this Part.

d) The applicant shall file with the Securities Department, a notice in

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writing (which may be by telegraphic, electronic or facsimile transmission), no later than the close of business on the second business day following the later of the effective date or the date on which the registration under Section 5.A.4 of the Act shall take effect.

- 1) The offering price(s) provided that if the offering is to be made by subscription, the purchase price(s) shall be as defined in the Federal 1933 Act, 15 CFR 230.415 as defined in Section 130.200 of this Part, the offering price(s) need only be furnished if known to applicant, and if not indicated in documents already on file with the Securities Department; and
- 2) The date that the registration statement or, if the applicant is electing the date of effectiveness of a post-effective amendment, that the post-effective amendment, became effective under the Federal 1933 Act, as defined in Section 130.200 of this Part.

- e) No offering of securities shall be registered under Section 5.A.4 of the Act if, prior to the effective date, all of the securities which are part of the offering being registered have been sold. The Secretary shall require, in any case where it appears that this condition has not been satisfied, that the applicant submit to the securities which may part of the offering, a statement, available for sale to the public, containing the following information:
 - 1) The issuer, controlling person or registered dealer, who filed the application may petition the Securities Department, in writing, prior to effectiveness of the registration of the securities under the Federal 1933 Act, as defined in Section 130.200 of this Part, for a waiver of automatic effectiveness of the registration of securities under the Act if such effectiveness would cause the issuer, controlling person or registered dealer to violate any provision of the Act or this Section. The Securities Department shall notify the issuer, controlling person or registered dealer in writing of the Secretary's decision to grant or deny any request for waiver of automatic effectiveness. If the waiver is granted, the registration of securities shall become effective automatically on such date as shall be designated in the application.
 - 2) The issuer, controlling person or registered dealer who filed the application has satisfied all of the requirements of the Act and this Section.

(Source: Amended at 2011, Reg. _____, effective _____)

Section 130.525. Procedures for Registration of Securities by Qualification under Section 5.A(7) of the Act, Small Company Offering Registration ("SCOR") on Form D-7

- a) To be eligible to use Form D-7, an issuer must comply with each of the following requirements:
 - 1) The issuer must be a corporation or a limited liability company organized under the laws of one of the states or possessions of

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the United States which engages in or proposes to engage in a business other than petroleum exploration or production or mining or other extractive industries, "wild pool" offerings and other offerings for which the specific business or securities cannot now be described are ineligible to use Form D-7.

- 2) The securities may not be offered or sold on behalf of the holder (including underwriters in a firm commitment underwriting) to register the securities for resale;
 - 3) The offering price for common stock and the exercise price, if the securities are options, warrants or rights for, and the conversion price if the securities are convertible into common stock must be equal to or greater than \$1.00 per share;
 - 4) The issuer may engage salespersons to sell the securities. Commissions, fees, or other remuneration for soliciting any prospective purchaser in this State in connection with this offering may only be paid to persons who are registered as salespersons;
 - 5) Form D-7 shall not be available for the securities of any issuer who is a corporation or partnership organized under the laws of a foreign country, or of any salesperson or of any officer, director or partner of such issuer, who is not a resident of the United States;
 - 6) The issuer, controlling person or registered dealer, who filed the application may petition the Securities Department, in writing, prior to effectiveness of the registration of the securities under the Federal 1933 Act, as defined in Section 130.200 of this Part, for a waiver of automatic effectiveness of the registration of securities under the Act if such effectiveness would cause the issuer, controlling person or registered dealer to violate any provision of the Act or this Section. The Securities Department shall notify the issuer, controlling person or registered dealer in writing of the Secretary's decision to grant or deny any request for waiver of automatic effectiveness. If the waiver is granted, the registration of securities shall become effective automatically on such date as shall be designated in the application.
- 7) The issuer, controlling person or registered dealer who filed the application has satisfied all of the requirements of the Act and this Section.

- A) has filed a registration statement which is the subject of a currently effective registration in order entered pursuant to any state's securities law within five years prior to the filing of the application for registration hereunder;
- B) has been convicted within five years prior to the filing of the application for registration hereunder of any felony or misdemeanor in connection with the offer, purchase or sale of any security or any felony involving fraud or deceit, including but not limited to, forgery, embezzlement, larceny, money under false pretenses, larceny or conspiracy;
- C) is currently subject to any state administrative enforcement order or judgment entered by that state's securities administrator within five years prior to the filing of the application for registration hereunder or is subject to any state's administrative enforcement order or judgment in which fraud or deceit, including but not limited to making untrue statements of material facts and admitting to state material facts, was found and the order or judgment was entered within five years prior to the filing of the application for registration hereunder;
- D) is subject to any state's administrative enforcement order or judgment which prohibits or restricts the use of securities in connection with the registration in connection with the subject offer, purchase or sale of securities included in

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will be selling the securities together with the filing fee required by Section 3.17 of the Act in the form and amount required by Section 10.110 of this Part or a description of the method by which the securities being registered will be offered and sold in Illinois in compliance with Section 8 of the Act.

- 21) Paying to the Securities Department the examination fee and filing fee required by Section 5.B(2)(g) and 5.C(1)(i), respectively, of the Act in the form and amount required by Section 130.110 of this Part.

2. The Securities Department shall within a reasonable time examine the application and documents filed, and unless:

- 1) The Securities Department makes a determination that the application and documents so filed do not conform to the requirements of Section 9(a)(7) of the Act and this Section of the Regulations.
- 2) The application for registration is then the subject of proceedings under section 11(f) of the Act or an order of suspension, denial or prohibition under section 11 of the Act, and the Commission may suspend, deny or prohibit the offering and resell the securities for offer and resale in this State under Section 10 of the Act.

- # THE INTEGRATION OF SECURITIES DEALER AND CREDIT UNION MEMBERS TO THE SECURITIES DEALER AS A DEVELOPMENT OF THE CREDIT UNION

- 1) Notification within two business days after the occurrence of any event which requires a material change in Form U-7 and submit the following:

- A) a complete Form U-7 as revised, amended or supplemented, marked to show changes from the previous filed version; and
 B) the amendment filing fee as required by Section 5.8(2)(a) of the Act and in the form and amount required by Section 130.110 of this Part.

21. Monthly sales report disclosing the total dollar amount of securities sold in this State, to be filed not later than 10 days after the close of each month.

- Final sales report disclosing the total dollar amount of business sales following the end of each month; securities sold in this State, to be filed not later than 10 business days following the completion or termination of the offering, and

- 4) Affidavit of termination as required pursuant to Section 5.D of the Act, to be filed not later than 30 days following completion or termination of the offering.

Source: Added at 20 Ill. Reg. _____, effective _____.

Section 130.538 Withdrawal of Registration Statement, or Amendment or Exhibit
Filed Under the Federal 1933 Act

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An application for restoration or amendment of exhibit may, prior to the expiration of the time for filing a petition for restoration, be withdrawn by written consent with the consent of the Secretary of State. The written request for withdrawal shall state the reasons for the withdrawal and shall be accompanied by a fee of \$10.00. The application shall be returned. All cases comprising the application for restoration or amendment shall present the application form, most current form of the restoration agreement, the application for restoration, and the application for amendment. The application shall be filed under the Federal 1930 Act or Prospectus and Correspondence, shall be accompanied by a fee of \$10.00, and shall be accompanied by a letter of transmittal from the applicant. The application shall be returned to the applicant with the request of the Secretary of State.

[illegible]

Received at 20 PM Reg. 1

Section 130.540 Procedure with Respect to Abandoning Abandoned Registration Statements, Applications for Trading Authorizations and Post-Effective Amendments

- When an application for registration, authorization to trade or post-effective amendment to such an application has been on file with the Secretary of State for a period of nine months and has not become effective, the Secretary of State may, in his or her discretion, proceed in the following manner to determine whether the application should be registered, authorized to trade or amended. The application for registration or authorization to trade or amendment has been abandoned by the applicant thereafter. If the application for registration or authorization to trade has been abandoned, order shall be entered upon the records of the Secretary of State that the application be deemed abandoned. If the application for amendment has been abandoned, the non-post-effective amendment shall be deemed abandoned. The Secretary of State shall not be deemed to have completed the term of one of the greatest such amendments.

- b) A notice will be sent to the applicant regarding the request for registration of authorization to exercise the right of priority in relation to the invention concerning the trade, by certified registered mail, return receipt requested, addressed to the most recent address for the applicant, regarding the request for registration of authorization to exercise the right of priority in relation to the invention concerning the trade. The notice will inform the

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Applicant registers--and--the agent--for--service that the application for registration or authorization to trade or amendment is out of date and the fee either amended to comply with the applicable requirements of the Act or the application is withdrawn within 30 days after the date of notice or an Order of Abandonment may be entered.

- c) If the applicant ~~resubmits~~ resubmits the application for registration or authorization to trade or amendment, the Secretary of State may, where consistent with the public interest and the protection of investors, enter an order declaring the application for registration or authorization to trade or amendment thereto abandoned.
- d) When such an order is entered by the Secretary of State:

1) the examination fee or filing fee paid upon the filing of the application for registration or the filing fee paid upon the filing of the application for an authorization to trade will not be returned;

2) all papers comprising the application for registration or authorization to trade or amendment, with the exception of the application form, the most current form of the registration statement filed under the Federal 1933 Act or the offering document and correspondence, will be removed from the files of the Secretary of State; and

- 3) the application form will be plainly marked in the following manner: "Declared abandoned by order dated _____ within 15 days of receipt of the Order of Abandonment. Such request for hearing before the Securities Director, or his or her designee, shall set forth the grounds upon which applicant seeks a hearing."

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUPPLEMENT F: FACE AMOUNT CERTIFICATE CONTRACTS

Section 130.610 Procedures for Registration of Face Amount Certificate Contracts by Coordination under Section 5.A.644 of the Act

a) Filing requirements.

- 1) Application for registration of Face Amount Certificate Contracts pursuant to Section 5.A.644 of the Act shall be made by filing the following documents with the Securities Department in Springfield in the form required by Section 5.A.62 of the Act:

a) One copy of the registration statement (without exhibits) which sets forth the title of the face amount certificate contracts, price of proposed offering price, and the aggregate number of units to be offered by the registration statement on file with the SEC in its most recent form as of

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the date of the initial filing under Section 5.A.644 of the Act;

b) ~~Form 317 is required by Section 5.A.644(b)(2) of the Act--and~~ Form 317 is required by Section 5.A.644(b)(2) of the Act--and

Be) A completed Application to Register Securities on Form U-1, executed by the applicant, if a natural person; or by a general partner, if the applicant is a corporation; or by an officer if the applicant is a corporation; or by another person if the applicant is a partnership; or by a person setting forth the title of the offering and the face amount certificate contracts to be registered pursuant to the Application, and, if the applicant is electing the date of effectiveness of a post-effective amendment filed or to be filed with the SEC as its "effective date" as defined in Section 2.13 of the Act, specifying such date as the "effective date" for purposes of paragraph 6 of the Application;

C9) If the applicant is not a registered dealer, the name of at least one registered dealer for the face amount certificate contracts being registered, or if no registered dealer is participating in the offering, a description of the method by which the face amount certificate contracts being registered will be offered and sold in Illinois in compliance with Section 130.610 of the Act; and

D9) The filing fee required by Section 130.610 of the Act in the form and amount required by Section 130.110 of this part.

2) The completed Application to Register Securities on Form U-1 shall constitute the application and the undertaking called for by Sections 5.A.62(1)(c) 5.A.644(b)(2) and 5.A.644(b)(3), respectively, of the Act, except that:

A) The time period for filing documents described in the undertaking set forth in paragraph 9(b) of the Application shall be deemed to be the seven (7) calendar days after the forwarding thereof to the SEC;

B) Only amendments to the federal registration statement which amend or supplement the registration statement need be filed pursuant to paragraph 9(b)(1) of the Application; and

C) The applicant otherwise shall be required to comply with the undertakings set forth in paragraph 9 of the Application.

b) If, prior to the registration of the face amount certificate contracts, the effect of the registration statement filed with the Securities Department of all of the documents and fees specified in subsection (a) of this Section, registration of face amount certificate contracts under Section 5.A.644 of the Act shall become effective automatically on the effective date; provided that:

1) The application for registration is not then the subject of pending proceedings under Section 130.610 of the Act or of an

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order of suspension, denial or prohibition under Section 11 of the Act; and at least one of the following events shall have occurred on or before the effective date:

A) The Securities Department shall have notified the applicant, in writing (which may be by telegraphic or facsimile transmission), that such documents and fees conform to the requirements of the Act and this Part; or

B) At least ten ~~ten~~ business days shall have expired from and including the date on which all of the documents and fees specified in subsection (a) of this Section have been filed with or paid to the Securities Department.

c) If, prior to the effective date, all of the documents specified in subsection (a) of this Section have not been filed with the Securities Department, the applicant shall have filed with the Securities Department a statement that all of the documents specified in subsection (a) of this Section shall take effect on the date that all of the following conditions are satisfied:

1) All of the documents and fees specified in subsection (a) of this Section shall have been filed with or paid to the Securities Department;

2) The application for registration is not then the subject of pending proceedings under Section 11 ~~11~~ 11 ~~11~~ 11 of the Act or of an order of suspension, denial or prohibition under Section 11 of the Act; and

3) There shall have been filed with the Securities Department a statement from the applicant, in writing (which may be by telegraphic, electronic or facsimile transmission), which either:

A) States that no face amount certificate contracts which are a part of the offering being registered have been sold in this State; or

B) If face amount certificate contracts which are a part of the offering have been sold in this State, that sets forth the name and address of each purchaser of such face amount certificate contract, the dollar amount sold, and the exemption or exemptions from registration under Section 3 or 4 of the Act relied upon in making such sale.

4) At least one of the following events shall have occurred:

A) The Securities Department shall have notified the applicant, in writing (which may be by telegraphic, electronic or facsimile transmission), that such documents and fees conform to the requirements of the Act and this Part; or

B) At least ten ~~ten~~ business days shall have expired from and including the date on which all of the documents and fees specified in subsection (a) of this Section have been filed with or paid to the Securities Department.

5) There shall have been filed with the Securities Department a statement from the applicant, in writing (which may be by telegraphic, electronic or facsimile transmission), dated no

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earlier than the first business day preceding the date on which the registration under Section 5.1 ~~5.1~~ 6 ~~6~~ 6 of the Act is to take effect, stating that:

A) The registration statement filed under the Federal 1933 Act, as defined in Section 130.200 of this Part, is then in effect; and

B) The registration statement, including any amendments or supplements thereto, then on file with the Securities Department satisfies the requirements of Section 10(a)(3) of the Federal 1933 Act, as defined in Section 130.200 of this Part.

d) The applicant shall file a notice with the Securities Department, in writing (which may be by telegraphic, electronic or facsimile transmission), which shall state that the applicant has filed with the Securities Department, on the date of the filing of the registration under Section 5.1 ~~5.1~~ 6 ~~6~~ 6 of the Act, shall take effect, of the date that the registration statement, or if the applicant is electing the date of effectiveness of a post-effective amendment, that the post-effective amendment, became effective under the Federal 1933 Act, as defined in Section 130.200 of this Part.

e) Any amendment to a registration under Section 5.1 ~~5.1~~ 6 ~~6~~ 6 of the Act to add any series, type or class of face amount certificate contracts shall be filed with the Securities Department in Springfield prior to the offer or sale of the additional series, type or class of face amount certificate contracts in this State. Such amendment shall be accompanied by the additional registration fee required by Section 5.1 ~~5.1~~ 6 ~~6~~ 6 of the Act in the form and amount required by Section 130.110 of this Part.

f) The issuer, controlling person or registered dealer who filed the application with the Securities Department in writing prior to the application of the registration of the face amount certificate contracts under the Federal 1933 Act, as defined in Section 130.200 of this Part, for a waiver of automatic effectiveness of the registration of the face amount certificate contracts under the Act, if such effectiveness would cause the issuer, controlling person or registered dealer to violate any provision of the Act or this Section. The Securities Department shall notify the issuer, controlling person or registered dealer in writing of the Secretary's decision to grant or deny any request for waiver of automatic effectiveness. If the waiver is granted, the registration of the face amount certificate contracts shall become effective automatically on such date as shall be designated in writing by the issuer, controlling person or registered dealer who filed the application provided that such person has satisfied all of the other requirements of the Act and this Section.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

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prior to the date that the application is deemed to be filed with the Securities Department and applicable computations which demonstrate compliance with Section 130.836 of this Part as of the date of the balance sheet, together with the most recent statement of financial condition, income statement or other financial statement of the dealer certified by an independent certified public accountant, if any;

24) One copy of the Illinois Form designating each principal of the dealer;

25) One copy of the Illinois Form designating the dealer's accountant and the dealer's annual audit date;

26) One copy of the Illinois Form containing an attestation that the dealer did not engage in the sale of securities in this State during the last fifty days immediately preceding the filing of the application or setting forth a claim of exemption for sale of securities in this State;

27) One copy of the Illinois Form setting forth the dealer's minimum net capital requirement;

28) One copy of each subordinated loan agreement on the form provided in Appendix D, if any, between the dealer and any officer, director, partner or manager of the dealer or other person which is not a natural person, if any, shall be in the form required by the NASD;

29) One copy of the most current form of applicant's Articles of Incorporation or charter and By-Laws, or Partnership Agreement, as applicable, or such other document, if any, by which an applicant that is not a natural person was formed;

30) If the applicant will not have its principal office in this State and intends to keep the records required under Section 130.825 of this Part outside of this State, one copy of the Illinois Form requesting a waiver of the requirement to maintain its records in this State;

31) Page (1) of Form U-4 for each officer and director of the dealer, except that for applicants that are members of the NASD, such page need not be filed with the dealer's application; and
32) One copy of the Illinois Form U-4 has been filed with the Securities Department on the behalf of the applicant through its agent, the CSD; and

33) Upon the agent's registration as a dealer, the Securities Department may require to determine the dealer's business reputation or to clarify statements made in the application for registration.

c) Each person applying for registration as a dealer shall give evidence of competency to engage in the business of dealing in, buying or selling securities by passing one of the examinations listed in Section 130.822 of this Part by a score of 70% correct, to demonstrate to the Secretary that the principal or principals of the applicant have knowledge of the securities business and the laws relating thereto.

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In the case of a person, other than a natural person, filing an application for registration as a dealer, all of the principals who, on behalf of the applicant, participate in or are responsible for the sale of securities in this State are required to take such an examination on behalf of the applicant. Each registered dealer shall amend the list not later than ten (10) business days after any change in any principal or principals of the dealer. There must be on file with the Securities Department, whether through the CSD or otherwise, the following:

1) Proof of passing one or more of the requisite examinations listed in Section 130.822 of this Part for each principal required to take such examination pursuant to subsection (c) of this Section, unless the Secretary shall have issued an Order waiving such examination requirements pursuant to Section 130.823 of this Part and Section 3.8(3) of the Act;

2) A Form U-4 for each officer and director or each other person performing a similar function of the applicant who is required to register as a salesperson as provided in this Section, and a page (12) of Form U-4 for each other officer or director of the applicant;

3) Any and all amendments required to the application and documents filed pursuant to subsection (a) of this Section, whether as the result of a change in the information provided since the date of filing, or otherwise; and

4) In the case of a dealer which is not a member of the NASD, an application for registration of a salesperson on Form U-4. The Securities Department shall grant concurrent registration of a salesperson pursuant to such application upon the registration of the dealer unless such dealer person is ineligible for registration under Section 130.821 of the Act. At least one salesperson must be registered on behalf of a dealer which is a member of the Securities Department. Notwithstanding the foregoing, any dealer which effects trades solely as a clearing dealer on behalf of other dealers need not register any salesperson.

5) Upon the agent's registration as a dealer, the Securities Department shall send to the dealer a certificate as evidence of such registration. The certificate shall be displayed in the dealer's principal office in this State and a facsimile thereof shall be displayed in each other office in this State. The dealer shall not remove the certificate to be so displayed in the dealer's principal office of business with respect to the dealer shall be amended from time to time whenever a change occurs which renders the information contained therein not

(5)

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accurate in any material respect. Such amendment shall be filed with the NASD, if the dealer is a member of the NASD, or with the Securities Department if the dealer is not a member of the NASD, within ten (10) business days after the occurrence of the change.

(g) For the limited purpose of this Section and solely to implement a supplemental procedure known as the CRO, a computer based registration system, for the registration and re-registration of dealers and salespersons, the term "in the Office of the Secretary of State", as used in Sections 3.10, 3.11 and 3.12 of the Act, and "with the Secretary of State", as used in Section 3.13 of the Act, and "with the Securities Department", as used in Section 130.820 of this Part, shall include a filing made with the NASD utilizing the single automated system referred to hereinafter as the CRO.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 130.811 Procedures for Perfecting an Investment Adviser Exemption under Section 2.11(6) of the Act (Repealed)

- a) The Secretary of State, at a designated representative shall cause an appropriate order to be entered upon the application for exemption from the definition of "investment adviser" under Section 2.11(6) of the Act, or any treaty, ordinance, but not limited to those persons rendering investment services to those entities enumerated in Section 4.0 of the Act, concerning those securities described in Section 4.0 of the Act, provided that the applicant shall petition the Secretary of State, in writing, and submit the following information:
 - 1) a statement detailing the type of services to be offered;
 - 2) a statement detailing the person rendering the services;
 - 3) a statement detailing the manner in which the services will be offered;
 - 4) a statement detailing the manner in which the services will be offered;
 - 5) a statement detailing the type of services to be offered;
 - 6) a statement detailing the type of services to be offered;
 - 7) any other information deemed necessary by the Secretary of State.
- b) The Secretary of State, at a designated representative shall cause an order to be entered upon the application for exemption from the definition of "investment adviser" under Section 2.11(6) of the Act, or any treaty, ordinance, but not limited to those persons rendering investment services to those entities enumerated in Section 4.0 of the Act, concerning those securities described in Section 4.0 of the Act, provided that the applicant shall petition the Secretary of State, in writing, and submit the following information:
 - 1) a statement detailing the type of services to be offered;
 - 2) a statement detailing the person rendering the services;
 - 3) a statement detailing the manner in which the services will be offered;
 - 4) a statement detailing the manner in which the services will be offered;
 - 5) a statement detailing the type of services to be offered;
 - 6) a statement detailing the type of services to be offered;
 - 7) any other information deemed necessary by the Secretary of State.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 130.820 Procedures for Renewal and Withdrawal from Registration as a Dealer

- a) If a registered dealer elects to withdraw its registration in this State, it shall file a Form BW with the NASD, if the dealer is a member of the NASD, or with the Securities Department if the dealer is not a member of the NASD, indicating such intent.
- b) If a registered dealer wishes to renew its registration, it shall file a Form BW with the NASD, if the dealer is a member of the NASD, or with the Securities Department if the dealer is not a member of the NASD. Any amended Form BW shall also be filed with the NASD, if the dealer is a member of the NASD, or with the Securities Department if the dealer is not a member of the NASD, within 30 (thirty) business days if any material changes occur in the information that was filed with the Securities Department when the dealer applied for registration.
- c) After the fee for renewal is filed with the NASD, as forwarded to the Securities Department, the Securities Department shall cause the dealer's certificate of registration to be returned to the dealer. The dealer shall be deemed to have renewed its registration in this State, and any and all other duties of the dealer shall be deemed to have been satisfied in this State, and any and all other duties of the dealer shall be deemed to have been satisfied in this State.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 130.822 Examinations Deemed Satisfactory for Purposes of Determining Sufficient Knowledge of Each Principal Under Section 8.19(1)(a) of the Act Prior to Registration as a Dealer

- a) Passage of the Series 24 (formerly Series 40 or Series 00) (General Securities Principal Examination) and the Series 63 (Uniform Securities Act Law Examination) or Series 66 (Uniform Combined State Law Examination) conducted by the NASD shall qualify a principal or principals of legal age in this State on behalf of a registered dealer without limitation in this State.
- b) Passage of the Series 29, 39 or 33 Examination examination and the Series 51 Examination (Uniform Securities Act Law Examination) conducted by the NASD shall qualify a principal or principals of legal age in this State on behalf of a registered dealer for registration in a limited capacity in this State.
- 1) The Series 36 Examination (Investment Company/Variable Contracts Products (CVC) Principal Examination) and Series 63 (Uniform Securities Act Law Examination) of Series 66 (Uniform Combined State Law Examination) shall qualify a registered dealer to offer or sell variable annuities or

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- securities issued by investment companies.
- 2) The Series 39 (Direct Participation Programs Principal (DPP) Examination) and Series 63 (Uniform Securities Act Law Examination) or Series 66 (Uniform Combined State Law Examination) shall qualify the registered dealer to offer or sell direct participation programs in tax shelter programs.
 - 3) The Series 53 (Municipal Securities Principal Examination) and Series 63 (Uniform Securities Act Law Examination) or Series 66 (Uniform Combined State Law Examination) shall qualify the registered dealer to offer or sell securities of municipalities or industrial development revenue obligations.
 - c) All scheduling for the examinations referred to in subsections (a) and (b) of this Section shall be made with, and fees paid to, an office of the NASD. The applicant for registration as a dealer shall submit in writing satisfactory evidence of passing the examination prior to registration in this State if such information is not available to the Securities Department through the CDB.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 130.825 Records Required of Dealers and Customer Fees

- a) Every dealer registered by the Secretary of State shall keep the following books and records ~~separate in this section~~:
 - 1) blotters (for other records of original entry) containing an itemized daily record of all purchases and sales of securities, all receipts and deliveries of securities (including certificate numbers), all receipts and disbursements of cash and all other debits and credits; the record shall show the name and account of the purchaser or seller, the name and account of the dealer, the unit and aggregate purchase or sale price (if any), the trade date, and the name or other designation of the person from whom purchased or received or to whom sold or delivered;
 - 2) ledgers (for other records) reflecting all assets and liabilities, income, and expenses and capital accounts;
 - 3) ledger accounts itemizing separately as to each cash and margin account of every customer and of the dealer and partners thereof, all purchases, sales, receipts and deliveries of securities and commodities for the account and all other debits and credits to the account;
 - 4) ledgers (for other records) reflecting the following:
 - A) securities loaned;
 - B) dividends and interest received;
 - C) securities borrowed and securities loaned;
 - D) monies borrowed and monies loaned (together with a record of the collateral thereof and any substitutions in the collateral).
 - b) securities failed to receive and failed to deliver;
 - 5) a securities record or ledger reflecting separately for each security as of the clearance dates, all "long" or "short" positions (including securities in safekeeping) carried by the dealer for its account or for the account of its customers or partners and showing the location of all securities long and offsetting position to all securities short and in all cases the name or designation of the account in which each position is carried;
 - 6) a memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities whether executed or unexecuted. The memorandum shall show the terms and conditions of the order, the dealer's name, the time of entry of the order, the price at which executed and, to the extent feasible, the time of execution or cancellation. Orders entered pursuant to the exercise of discretionary power by the dealer, or any employee thereof, shall be so designated. The term "instruction" shall be deemed to include instructions between partners and employees of a dealer. The term "time of entry" shall be deemed to mean the time when such dealer transmits the order or instruction for execution, or, if it is not so transmitted, the time when it is received;
 - 7) a memorandum of each purchase and sale of securities for the account of the dealer showing the price and, to the extent feasible, the time of execution or cancellation;
 - 8) a memorandum of all purchases and sales of securities and copies of notices of all other debits and credits for securities, cash and other items for the account of customers and partners of the dealer;
 - 9) a record in respect of each cash and margin account with the dealer containing the name and address of the beneficial owner of the account; provided that, in the case of a joint account or an account of a corporation, the records are required only in respect of the person or persons authorized to transact business for the account;
 - 10) a record of all puts, calls, spreads, straddles and other options in which the dealer has any direct or indirect interest, for which the dealer has granted or guaranteed the number of units involved.
- b) This section shall not be deemed to require a number of a national securities exchange to make or keep records of transactions cleared for the member by another member as are customarily made and kept by the clearing member.
 - c) Every dealer registered by the Secretary of State shall preserve, for a period of not less than 3 years, the first 2 years in an easily accessible place:

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- securities or accepts prepayment of in excess of \$500.00;
- 5) whether the investment adviser has discretion over clients' portfolio;
- 6) whether the investment adviser will give clients Part II of the Uniform Application for Investment Adviser Registration required by subsection (a)(1) of this Section or another document containing the same information.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Organization
- 2) Code Citation: 2 Ill. Adm. Code 1650
- 3) Section Numbers: Adopted Action:
 1650.110 Amendment
 1650.310 Amendment
 1650.410 Amendment
 1650.1010 Amendment
 1650.1030 Amendment
 1650.1340 Repeal
 1650.1360 Repeal
 Table A Amendment
- 4) Statutory Authority: Implementing and authorized by the Capital Development Board Act (20 ILCS 3105).
- 5) Effective date of Rule: July 16, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) Date filed in Agency's Principal Office: July 16, 1996
- 9) Notice of Proposal published in Illinois Register: This amendment involves the internal organization of the Agency, neither prior publication nor a public comment period was required for this rulemaking.
- 10) Has JCAB issued a Statement of Objections to this rule? No
- 11) Differences(s) between proposal and final version: None
- 12) Have all the changes agreed upon by the Agency and JCAB been made as indicated in the amendment proposed by JCAB? Since this amendment involves the internal organization of the Agency, no JCAB comment period was required for this rulemaking.
- 13) Will this amendment replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Table A, the Agency's organization chart, is being updated to reflect changes that were made during the restructuring of this Agency. The Illinois Revised Statutes citations have been replaced with the Illinois Compiled Statutes citations throughout the text of this rule.

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 20 Ill. Reg. 9917, effective JUL 16 1996)

Section 1650.1040 Insurance (Repealed)

As long as any bonds of an authorized series remain outstanding, the Board shall cause insurance to be maintained on the subject property. Such insurance shall be in an amount equal to full insurable value and shall cover all risks included in extended insurance coverage.

(Source: Repealed at 20 Ill. Reg. 9917, effective JUL 16 1996)

Section 1650.1060 Severability (Repealed)

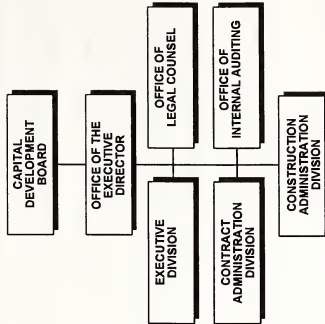
If any Section, sentence or clause of this Part is for any reason held invalid or unconstitutional, the validity of the remaining portions of this Part shall not be affected.

(Source: Repealed at 20 Ill. Reg. 9917, effective JUL 16 1996)

CAPITAL DEVELOPMENT BOARD

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Section 1650, Table A Organization



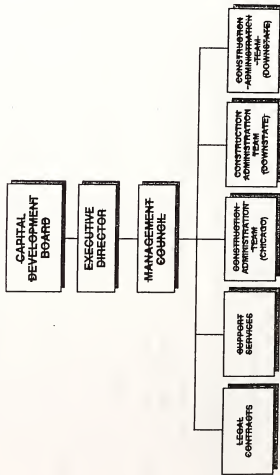
9917

JUL 16 1996

(Source: Amended at 20 Ill. Reg. 9917, effective JUL 16 1996)

CAPITAL DEVELOPMENT BOARD
NOTICE OF ADOPTED AMENDMENTS

Section 1650. Table A Organization



(Source: Amended at 20 Ill. Reg. _____, effective JUL 16 1996.)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Pay Plan.
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number:

310.50	Adopted Action:
Amended	
310.70	Amended
310.100	Amended
310.280	Amended
310.480	Amended
310.490	Amended
310.500	Amended
310. Appendix A Table F
- 4) Statutory Authority: Authorized by Section 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 5) Effective Date of Amendment: July 10, 1996
- 6) Does this rulemaking contain an automatic renewal date? No
- 7) Does this amendment contain incorporation by reference? No
If "yes", was a copy of the approval form issued by JCPR attached to this rulemaking?
- 8) Date filed in Agency's Principal Office: July 10, 1996
- 9) Notice of Proposal Published in Illinois Register: March 15, 1996, Issue #11, 20 Ill. Reg. 5106
- 10) Has JCPR issued a Statement of Objections to this rule? No
- 11) Difference between proposal and final version:
 1. In line 573, deleted the word "limit" and changed "their" to "his or her".
 2. In line 574, changed "their" to "their the salary need not be placed . . ."
 3. In line 842, deleted the word "Limit".
- 12) Have all the changes listed upon by the agency and JCPR been made as indicated in the amendment letter issued by JCPR? Yes
- 13) Will these amendments replace an emergency amendment currently in effect? No

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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- 14) Are there any amendments pending to this part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
310.230	Amended	20 Ill. Reg. 5405 (April 12, 1996)

- 15) Summary and Purpose of Amendment:

In Section 310.50, Definitions, a definition for "In-hiring Rate" was included which states: An in-hiring rate is a minimum rate set for a class which is above the normal minimum of the range, as established by the approval of the Director of the Department of Central Management Services after a review of competitive market starting rates for similar classes.

The definition for "Salary Range" was revised to read: "The dollar value represented by Steps 1 IC through 7 of a grade assigned to a class title."

In Section 310.70, Conversion of Base Salary to Daily or Hourly Equivalents, in subsection a), which pertains to the methods of computation pertaining to payment for vacation and overtime, the Section was updated to include sick leave with the clarification that compensatory sick leave is for sick leave earned and not taken since January 1984, and is to be liquidated at one half rate.

In Section 310.100, Other Pay Provisions, in subsection f), which pertains to compensation for employees who have accrued sick leave and unused compensatory overtime as well as accrued vacation will receive a lump sum payment upon separation from employment. Further explanation clarifies that compensatory sick leave is for sick leave earned and not taken since January 1984, and is to be liquidated at one half rate.

In Section 310.280, Designated Rate, the following updates reflect changes already approved by the Governor.

In the Department of Commerce and Community Affairs, a Economic Development Representative II position was added with the annual salary of \$50,400.

Also in the Department of Commerce and Community Affairs, a Private Secretary II was also included with the annual salary of \$43,164. And, the Public Service Administrator's annual salary was amended to reflect a salary change from \$63,432 to \$65,592.

In the Department of Insurance, the Senior Public Service Administrator's annual salary was amended to reflect a rate change from \$90,648 to \$94,274.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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In the Department of Mental Health and Developmental Disabilities, a Medical Administrator II, Option D, position was added with the annual salary of \$142,000.

A Public Service Administrator position with the annual salary of \$69,714 was added for the Department of Revenue.

In Section 310.480, Decreases in Pay, the opening paragraph was revised to make an inclusion that if an employee is reduced to a lower class, the above shall provide that the employee's salary may be placed within the "Merit Pay Zone" of the lower class.

In Section 310.490, Other Pay Provisions, in subsection f), it was clarified that employees who have accrued sick leave and unused compensatory vacation will receive a lump sum payment upon separation from employment. Further explanation clarifies that compensatory sick leave is for sick leave earned and not taken since January 1984, and is to be liquidated at one half rate.

In Section 310.500, Definitions, the definition for "Maximum Rate of Pay" was modified to read as follows: "The highest rate of pay below the "Merit Pay Zone Limit" for a given particular salary range."

A definition for "Merit Pay Zone Limit" was included which states: "The highest rate of pay for a particular salary range within the Merit Compensation Salary Schedule."

In Section 310, Appendix A, Table P, RC-019 (Tenesters, Local #25), the Department of Conservation's name has changed to "Department of Natural Resources".

- 16) Information and questions regarding these adopted amendments shall be directed to:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
Telephone: (217) 782-5601

The full text of the Adopted Amendment(s) begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE 1: PERSONNEL, SALARIES, PENSIONS, RETIREMENT, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310

PAY PLAN

SUBPART A: NARRATIVE

Section
310.20 Policy and Responsibilities
310.30 Jurisdiction
310.40 Pay Schedules
310.50 Definitions
310.60 Conversion of Base Salary to Pay Period Units
310.60 Conversion of Base Salary to Daily or Hourly Equivalents
310.60 Increases in Pay
310.80 Merit Increases
310.90 Other Pay Provisions
310.100 Implementation of Pay Plan Changes for Fiscal Year 1996
310.120 Interpretation and Application of Pay Plan
310.130 Effective Date
310.140 Reinstatement of Within Grade Salary Increases
310.150 Fiscal Year 1995 Pay Changes in Schedule of Salary Grades, Effective July 1, 1994 (Repeated)

SUBPART B: SCHEDULE OF RATES

Section
310.205 Introduction
310.210 Prevailing Rate
310.220 Negotiated Rate
310.230 Part-time Daily or Hourly Special Services Rate
310.240 Hourly Rate
310.250 Probationary, Patient and Inmate Rate
310.260 Probationary, Patient and Inmate Rate
310.270 Negotiated and Contracted Rate
310.280 Designated Rate
310.290 Out-of-State or Foreign Service Rate
310.300 Educator Schedule for RC-963 and RC-910
310.310 Physician Specialist Rate
310.320 Annual Compensation Ranges for Executive Director and Assistant
Executive Director, State Board of Elections
Excluded Classes Rate (Repeated)

SUBPART C: MERIT COMPENSATION SYSTEM

310.330

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Section
310.10 Jurisdiction
310.20 Objectives
310.30 Responsibilities
310.40 Merit Compensation Salary Schedule
310.450 Procedures for Determining Annual Merit Increases
310.455 Intermittent Merit Increase
310.456 Merit Zone
310.460 Other Pay Increases
310.470 Adjustment
310.480 Decreases in Pay
310.490 Other Pay Provisions
310.495 Broad-Band Pay Range Classes
310.500 Definitions
310.510 Conversion of Base Salary to Pay Period Units
310.520 Implementation of Base Salary to Daily or Hourly Equivalents
310.530 Annual Merit Increase Guidechart for Fiscal Year 1995
310.540 Fiscal Year 1995 Pay Changes in Merit Compensation System, effective July 1, 1994 (Repeated)

APPENDIX A

Negotiated Rates of Pay

HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE AA
TABLE B
TABLE C
TABLE D
TABLE E
TABLE F
TABLE G
TABLE H
TABLE I
TABLE J
TABLE K
TABLE L
TABLE M
TABLE N
TABLE O
TABLE P
TABLE Q
TABLE R
TABLE S
TABLE T
TABLE U
TABLE V
TABLE W

HR-196 (Department of Natural Resources, Teamsters)
RC-069 (Firefighters, AFSCME)
HR-001 (Teamsters Local 4726)
RC-320 (Teamsters Local 4330)
RC-019 (Teamsters Local 425)
RC-045 (Automotive Mechanics, IPFE)
RC-006 (Corrections Employees, AFSCME)
RC-009 (Institutional Employees, AFSCME)
RC-014 (Clerical Employees, AFSCME)
RC-023 (Registered Nurses, INA)
RC-108 (Boilermakers, Local 108)
RC-113 (Communication Team, Union AFSCME)
RC-028 (Paraprofessional Human Services Employees, AFSCME)
RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IPFE)
RC-033 (Meat Inspectors, IPFE)
RC-042 (Residual Maintenance Workers, AFSCME)
HR-012 (Fair Employment Practices Employees, SEIU)
HR-010 (Teachers of Deaf, IPFE)
HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
CU-500 (Corrections, Meet and Confer Employees)
RC-062 (Technical Employees, AFSCME)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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"Differential" -- The additional compensation added to the base salary of an employee resulting from conditions of employment imposed on him/her during normal schedule of work.

"Entrance Salary" -- The initial base salary assigned to an employee on entering state service.

"In-hiring Rate" -- An in-hiring rate is a minimum rate/step for a class which is above the normal minimum of the range, as established by the approval of the Director of the Department of Central Management Services after a review of competitive market studies for similar classes.

"Promotion" -- The appointment of an employee, with the approval of the agency and the Department of Central Management Services, to a vacant position in a class in a higher salary grade than the former class.

"Reclassification" -- The change in the classification of an existing position resulting from significant changes in assigned duties and responsibilities.

"Reevaluation" -- The assignment of a different salary grade to a class based upon change in relation to other classes or to the labor market.

"Salary Range" -- The dollar value represented by Steps 1c through 7 of a grade assigned to a class title.

"Satisfactory Performance Increase" -- An upward revision in the base salary for an employee resulting from a satisfactory performance appraisal. The salary grade for an employee is the result of having earned the required amount of time at the former rate with not less than a satisfactory level of competence. (Satisfactory level of competence shall mean work, the level of which in the opinion of the agency head, is above that typified by the marginal employee.)

"Superior Performance" -- Performance characterized by work results substantially above a satisfactory level.

"Transfer" -- The assignment of an employee to a vacant position having the same salary grade.

"Work Year" -- That period of time determined by the agency and filed with the Department of Central Management Services in accordance with 80 Ill. Adm. Code 303.300 of the Department of Central Management Services rules.

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(Source: Amended at 20 Ill. Reg. 9925, effective JUL 1 1996)

Section 310.70 Conversion of Base Salary to Daily or Hourly Equivalents

For purposes of determining the hourly or daily equivalent of a base salary, the following methods of computation shall apply:

- Payment for Vacation, Sick Leave and Unused Compensatory Overtime Credits -- A daily (hourly) equivalent shall be determined by converting the base salary to an annual salary and dividing the result by the number of days (hours) usually worked in a year, according to the agency's normal work schedule as filed with the Department of Central Management Services.

This compensatory sick leave is for sick leave earned and not taken since January 1, 1991. It is to be liquidated at the half rate.

- For Fractional Part-time -- A specific pay period in those instances in which an employee's salary is less than the actual represents a number of work days (hours) that is less than the actual number of work days (hours) in the pay period, the formula to be used is: monthly rate divided by two equals pay period rate; pay period rate divided by days (hours) scheduled equals daily (hourly) rate; daily (hourly) rate multiplied by days (hours) worked equals gross amount earned.

- Part-time Work -- Part-time employees, whose base salary is other than an hourly or daily basis, shall be paid on a daily rate basis which will be computed from annual rates of salary and the total number of work days in the year.

(Source: Amended at 20 Ill. Reg. 9925, effective JUL 1 1996)

Section 310.100 Other Pay Provisions

- Transfer -- Upon the assignment of an employee to a vacant position in a class with the same salary grade as the class for the position being vacated, the employee's base salary will not be changed. Upon separation from a position of a given class and subsequent appointment to a position in the same salary grade, no increase in salary will be given.

- Entrance Salary -- Normally upon original entry to state service, an employee's base salary will be at Step 1c of the salary grade.

- Qualifications -- Minimum requirements for entry related training and experience in excess of the minimum requirements of the class specification, the entrance salary may be up to Step 3 as determined by the employing agency. The salary offered should not provide more than a 10% increase over the candidate's current salary.

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B) Such qualifications above the minimum requirements must possess documented support for higher than the Step 1 entrance salary. An entrance salary higher than Step 3 must have prior approval from the Director of Central Management Services.

2) Area Differential -- For positions where additional compensation is required because of dissimilar economic or other conditions in the geographical area in which such positions are established, a higher entrance step may be authorized by the Director of Central Management Services. Employees receiving less than the new shall be advanced to the new rate.

3) Upon the geographical transfer from or to an area for which additional compensation has been authorized, an employee will receive an adjustment to the appropriate salary level for the new geographical area of assignment effective the first day of the month following date of approval.

c) Differential and Overtime Pay -- An eligible employee may have an amount added to his/her base salary for a given pay period for work performed which is in excess of the normal requirements for the position and work schedule, as follows:

1) Shift Differential Pay -- An employee may be paid an amount in addition to his/her base salary for work performed on a regularly scheduled second or third shift. The additional compensation shall be at a rate and in a manner approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employees, and the equity of the particular circumstances.

2) Overtime Pay --

A) The Director of Central Management Services will maintain a list of titles whose incumbents are eligible for overtime at a time and one-half rate for all hours actually worked in excess of the normal work schedule in any given work week. Overtime shall be paid in cash only unless an employee requests compensatory time off at the time and one-half rate. Such request shall be considered and granted or denied by the agency in light of their operating needs. The employee shall make his/her choice known to the agency not later than the end of the work week. If the request for compensatory time was granted, such compensatory time request is granted it shall be taken within the fiscal year it was earned at the time convenient to the employee and consistent with the operating needs of the agency. Accrued compensatory time not used by the end of the fiscal year in which it was earned shall be liquidated and paid in cash at the rate it was earned.

B) A list will also be maintained by the Director of Central

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Management Services of titles whose incumbents are eligible for straight-time compensation. Employees in these classes or positions who are assigned and placed by the agency shall be compensated on a straight-time rate on either a cash or compensatory time-off basis, as determined by the agency in light of their operating needs, for all hours worked in excess of a normal work week. Overtime in less than one-half hour increments per day shall not be accrued. If compensatory time is not liquidated within the fiscal year during which it is accrued, it must be liquidated at the end of the fiscal year in cash at the employee's rate of pay in effect at the time of liquidation.

3) Incentive Pay -- An employee may be paid an amount in addition to his/her base salary for work performed in excess of the normal work standards as determined by agency management. The additional compensation shall be at a rate and in a manner approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employees, and the equity of the particular circumstances.

4) Extra Duty Pay -- An employee may be paid an amount in addition to his/her base salary for service in addition to the regular work schedule on a special work assignment. Additional compensation will be at a rate and in a manner approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employees, and the equity of the particular circumstances.

d) Part-Time Work -- Part-time employees whose base salary is other than an hourly or daily basis shall be paid on a daily basis which will be computed from annual rates of salary and the total number of work days in the year.

e) Out-of-State Assignment -- Employees who are assigned to work out-of-state on a temporary basis may receive an appropriate differential during the period of the assignment, as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employees, and the equity of the particular circumstances.

f) Lump Sum Payment -- Shall be provided for accrued vacation, sick leave, and unused compensatory overtime at the current base rate of those employees separated from employment under the Personnel Code.

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Leaves of absence and temporary lay-off (per 80 Ill. Adm. Code 302.510) are not separations and therefore lump sum cannot be given in these transactions. Method of computation is explained in Section 302.510. If this method is used in computing the lump sum payment ACKNOWLEDGE this method to be used in computing the lump sum payment for accrued vacation, sick leave* and unused compensatory overtime payment for an incumbent entitled to shift differential during his/her regular work hours will be to use his/her current base salary plus the shift differential pay.

*This compensatory sick leave is for sick leave earned and not taken since January 1, 1994. It is to be liquidated at one-half rate.

- g) Salary Treatment Upon Return From Leave -- An employee returning from Military leave, Peace Corps leave, Vista leave, Service-Connected Disability leave, leave to accept a Temporary, Emergency, Provisional, Exempt or Trainee position, or Educational leave will be placed on the step which reflects satisfactory performance increases to which the employee is entitled. An employee returning from a creditable service date will be maintained at an employee returning to his/her former salary grade from any other leave of over fourteen days will be placed at the step on which he/she was situated prior to his/her leave, and his/her creditable service date will be extended by the duration of the leave.

- h) Salary Treatment Upon Reemployment --

1) Upon the reemployment of an employee in a class with the same salary grade as the class for the position held before layoff, the employee will be placed at the same salary step as held at the time of the layoff, and his/her creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.

- 2) Upon reemployment of an employee in a class at a lower salary grade than the range of the class for the position held before layoff, the employee will be placed at the step in the lower salary grade which provides the base salary nearest in amount to, but less than, the current value of the step held at the time of layoff, and his/her creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.

- i) Reinstatement -- The salary upon reinstatement of an employee will be as determined by the employing agency and approved by the Director of Central Management Services. This salary should not provide more than a 3% increase over the candidate's current salary or exceed the value of the salary step held in the position where previously certified.

- j) Extended Service Payment --

1) Effective July 1, 1994, the Step 7 rate shall be increased by \$25.00 per month for those employees who have attained ten (10) years of service and have three (3) years of creditable service

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on Step 7 in the same pay grade.

- 2) Effective July 1, 1994, the Step 7 rate shall be increased by \$50.00 per month for those employees who have attained fifteen (15) years of service and have three (3) years of creditable service on Step 7 in the same pay grade.

- k) Bi-Lingual Pay --

- 1) Effective October 1, 1994, individual positions whose job descriptions require the use of sign language or a second language shall receive an additional 1% or \$75.00 per month whichever is greater in addition to the employee's base rate.
- 2) Effective July 1, 1995, individual positions whose job descriptions require the use of sign language or a second language shall receive an additional 1% or \$100.00 per month whichever is greater in addition to the employee's base rate.

(Source: Amended at 20 Ill. Reg. 99.25 - 2 effective JUL 10 1996)

SUBPART B: SCHEDULE OF RATES

Section 310.280 Designated Rate

The rate of pay for a specific position or class of positions where it is deemed desirable to exclude such from the other requirements of this Pay Plan shall be only as designated by the Governor.

Department of Children & Family Services

Private Secretary II
(Pos. No. 31202-16-20-00-03-30)
Annual Salary
43,452

Department of Commerce & Community Affairs

Economic Development Representative II
(Pos. No. 31232-42-38-14-30-01)
Annual Salary
50,400

Private Secretary II
(Pos. No. 31202-42-30-20-01-02)
Annual Salary
42,161

Public Information Officer IV
(Pos. No. 37004-42-30-73-10-01)
Annual Salary
59,880

Public Service Administrator
(Pos. No. 37015-42-38-14-20-01)
Annual Salary
54,552

Public Service Administrator
(Pos. No. 37015-42-38-14-20-01)
Annual Salary
63,412

Department of Insurance

Public Service Administrator
(Pos. No. 37015-42-38-14-20-01)
Annual Salary
65,392

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Senior Public Service Administrator
(Pos. No. 44979-14-38-88-88-88-88)
(Pos. No. 10070-14-00-000-00-06)

Annual Salary
\$9,448
94,274

Department of Mental Health and Developmental Disabilities

Medical Administrator I, Option D
(Pos. No. 26401-22-59-903-10-02)

Annual Salary
131,250

Medical Administrator II, Option D
(Pos. No. 26403-22-56-250-30-31)

Annual Salary
142,000

Private Secretary II
(Pos. No. 34028-22-15-000-00-01)

Annual Salary
41,004

Department of Natural Resources

Public Service Administrator
(Pos. No. 37015-12-11-220-00-01)

Annual Salary
72,000

Department of Revenue

Public Service Administrator
(Pos. No. 37015-12-12-300-00-01)

Annual Salary
69,714

Department of State Police

Senior Public Service Administrator
(Pos. No. 40070-11-10-300-00-01)

Annual Salary
95,153

(Source: Amended at 20 Ill. Reg. 99.25 effective JUL 1 0 1996)

SUBPART C: MERIT COMPENSATION SYSTEM

Section 310.480 Decreases in Pay

Employees subject to this Part shall have their salaries reduced only as specified below. Any reduction in salary shall become effective on the first day of the month following approval of the reduction. However, if an employee's present salary is in the Merit Pay Zone of his or her present salary range, the salary need not be reduced to the maximum of the lower salary range if in excess thereof, but shall be reduced to the Merit Pay Zone limit in the lower salary range.

- a) Upon assignment of an employee to a vacant position in a class with the same salary range as the class for the position being vacated, the employee's base salary will not be changed. Upon separation and subsequent appointment to a position in the same salary range, the employee's base salary will not be changed.
- b) Base salary will be at the minimum salary of the salary range.
- 1) Qualifications above Minimum Requirements --

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period following promotion will have the base salary reduced to the same salary the employee received before being promoted and the previous creditable service date will be restored.

- b) Position Reallocated to a Lower Class -- If the employee's current base salary is within the lower salary range, it shall be retained without change, but shall be reduced to the maximum of the lower salary range if in excess thereof. However, as provided in Section 8(a) of the Personnel Code, the pay of an employee whose position is reallocated because of duties and responsibilities after appointment to such position shall not be required to be lowered to a salary within the range for a period of one year.

- c) Voluntary Reduction to a Lower Class -- If the employee's current base salary is within the lower salary range, it shall be retained without change, but shall be reduced to the maximum of the lower salary range if in excess thereof. However, an employee who voluntarily accepts a reduction during a probationary period following a promotion will have the base salary reduced to the same salary in the lower salary range from which the employee was promoted and the previous creditable service date will be restored.

- d) Assignment of a Lower Salary Range to a Class -- If the employee's current base salary is within the lower salary range, it shall be retained without change, but shall be reduced to the maximum of the lower salary range if in excess thereof.

- e) Adjustment -- An employee may receive a downward adjustment in base salary for the purpose of correcting a previous error or oversight or when the best interest of the agency or the State of Illinois will be served. Adjustments must have the prior approval of the Director of Central Management Services in writing. In determining the appropriate downward adjustment, the Director of Central Management Services will consider the employee's position, the need for the adjustment, whether the action is consistent with the treatment of other similar situations, and whether the action is equitable in view of the particular circumstances prompting the request.

(Source: Amended at 20 Ill. Reg. 99.25 effective JUL 1 0 1996)

Section 310.490 Other Pay Provisions

- a) Transfer -- Upon assignment of an employee to a vacant position in a class with the same salary range as the class for the position being vacated, the employee's base salary will not be changed. Upon separation and subsequent appointment to a position in the same salary range, the employee's base salary will not be changed.
- b) Base Salary -- Normally upon entry into state service, an employee's base salary will be at the minimum salary of the salary range.
- 1) Qualifications above Minimum Requirements --

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A) If a candidate possesses directly related training and experience in excess of the minimum requirements of the class specification, the employing agency may grant an entrance salary up to the midpoint of the first half of the salary range, however, the candidate must provide more than documented support for higher than the minimum entrance salary.

B) An entrance salary above the middle of the first half of the salary range must have prior approval of the Director of Central Management Services. This approval will be based on consideration of the candidate's training and experience exceeding the requirements of the class, prior salary history, particular staffing requirements of an agency, and labor market influence on recruitment needs.

2) Area Differential -- For positions where additional compensation is required because of assignment to a position in a higher geographic area, such positions are established, a higher entrance salary may be authorized by the Director of Central Management Services. Present employees receiving less than the new rate of pay shall be advanced to the new rate.

3) Upon the geographical transfer from or to an area for which additional compensation has been authorized, an employee will receive an adjustment to the appropriate salary level for the new geographical area of assignment, effective the first day of the month following the date of assignment.

c) Differential and Overtime Pay -- An eligible employee may have an amount added to the base salary for a given pay period for work performed which is in excess of the normal requirements for the position which he occupies. As follows:

1) Shift Differential Pay -- An employee may be paid an amount in addition to the base salary for work performed on a regularly scheduled second or third shift. The additional compensation will be at a rate and in a manner approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employees, and the equity of the particular circumstances.

2) Overtime Pay -- The Director of the Department of Central Management Services shall maintain a listing of classes of positions subject to the provisions of the Merit Compensation Act. Employees in these classes who are assigned to overtime salary ranges MC 6 and below are eligible for straight-time overtime unless exceptions are determined by the Director of Central Management Services. Classes above MC 6 may be added to the list when requested by an agency and approved by the Director

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of Central Management Services in consideration of need of the agency and relationship to eligible titles. Employees in these classes of positions who are assigned and perform work in excess of the normal requirements of the class specification shall be compensated at a straight-time rate. The agency shall be required to provide a basis for all hours worked in excess of a normal work week. Overtime in less than one-half hour increments per day shall not be accrued. If compensatory time is not liquidated within the fiscal year during which it is accrued, it must be liquidated at the end of the fiscal year in cash at the employee's rate of pay in effect at the time of liquidation. Any exception to the above provisions for overtime compensation shall be approved by the Director of the Department of Central Management Services. Such exceptions must be requested by the employing agency and will be determined on the basis of the specific nature of the situation. A substantial need to provide compensatory time in excess of the normal work schedule and beyond the normal work schedule, and will be granted only for a specified time period for which the special situation is expected to exist.

d) Part-time Work -- Part-time employees whose base salary is other than an hourly or daily basis shall be paid on a daily rate basis which will be computed from annual rates of salary and the total number of work days in the year.

e) Out-of-State Assignment -- Employees who are assigned to work out-of-state on a temporary basis may receive an appropriate differential during the period of the assignment, as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employees, and the equity of the particular circumstance.

f) Lump Sum Payment -- Shall be provided for accrued vacation, sick leave, and unused compensatory overtime at the current base rate to those employees separated from employment under the Personnel Code. Leaves of absence and temporary layoff (per 40 Ill. Adm. Code 302.510) are not separations and therefore lump sum payments cannot be given in these transactions. Methods of computation are explained in Section 310.520(a) of the Merit Compensation Act.

AGENCY NOTE: The method to be used in computing lump sum payment for vacation, sick leave, and unused compensatory overtime payment for an employee entitled to shift differential during the regular work hours will be to use the current base salary plus the shift differential pay.

*This compensatory sick leave is for sick leave earned and not taken since January 1, 1984. It is to be liquidated at one half rate. Salary treatment upon Return from Leave -- An employee returning from Military Leave, Peace Corps Leave, Vista Leave, Service-Connected

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Disability leave, leave to accept a Temporary, Emergency, Provisional, or Special Assignment position, and leave to accept a position whose salary is established as determined appropriate by the employing agency and approved by the Director of Central Management Services. However, in no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range. Creditable service date will be maintained. An employee returning to his/her former salary range from any other leave of over fourteen days will be placed at the salary which the employee received prior to the leave and the creditable service date will be extended by the duration of the leave.

- h) Employees in classes which are made subject to the Merit Compensation System after July 1, 1979, will retain their current salary, except that in no event is the resultant salary to be lower than the minimum rate or higher than the maximum rate of the new salary range.
- i) Extra duty pay. An employee may be paid an amount in addition to the regular salary for services performed in excess of his/her normal assignment. Additional compensation will be paid at a rate and manner as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.
- j) Salary Treatment Upon Reemployment --

- 1) Upon the reemployment of an employee in a class with the same salary range as the class for the position held before layoff, the employee will be placed at the same salary as held at the time of the layoff, and his creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.
- 2) Creditable service time of an employee in a class at a lower salary range than the position he is reemployed in for the position held before layoff, the employee will be placed at the same salary as held at the time of layoff, except that if this exceeds the maximum of the new range, the employee will be placed at that maximum salary. The creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.
- k) Reinstatement -- The salary upon reinstatement of an employee will be as determined by the employing agency and approved by the Director of Central Management Services. This salary should not provide more than a 10% increase over the candidate's current salary, or exceed the salary rate held in the position where previously certified. In no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range.

- l) Bilingual Pay -- October 1, 1984, individual positions whose job descriptions require the use of sign language or a second

language shall receive an additional 4% or \$75.00 per month, whichever is greater, in addition to the employee's base rate.

- 2) Positions requiring the use of sign language or a second language shall receive an additional 5% or \$100.00 per month, whichever is greater, in addition to the employee's base rate, in addition to his/her base salary to compensate for clothing or equipment which is required in the performance of assigned duties. The amount will be determined by the Director of the employing agency, and will require approval of the Director of the Department of Central Management Services. The Director of the Department of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstance.

(Source: Amended at 20 Ill. Reg. 99.25, effective JUL 10 1986)

Section 310.500 Definitions

The following are definitions of certain terms and are for purposes of clarification as they affect the Merit Compensation System only.

"Adjustment in Salary" -- A change in salary occasioned by previously committed error or oversight, or required in the best interest of the agency or the state as defined in Sections 310.470 and 310.480 of this Subpart.

"Base Salary" -- The dollar amount of pay of an employee as determined under the provisions of the Merit Compensation System. Base salary does not include overtime pay or shift differential pay or deductions for time not worked.

"Creditable Service" -- All service in full or regularly scheduled part-time pay status beginning with the date of initial employment or the effective date of the last in-grade or promotional salary increase. Reevaluations and reallocations will not affect the creditable service date. Adjustments (Section 310.470) for the purpose of correcting a previous error or oversight shall not result in a change in the creditable service date; however, adjustments in "the best interests of the agency" shall result in a new creditable service date unless the Director of the Department of Central Management Services determines such changes to be inequitable.

"Comparable Classes" -- Two or more classes that are in the same salary range.

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"Promotion" -- The assignment for cause of an employee to a vacant position in a class in a lower salary range than the former class.

"Differential" -- The additional compensation added to the base salary of an employee resulting from conditions of employment imposed during the normal schedule of work.

"Entrance Salary" -- The initial base salary assigned to an employee upon entering State service.

"Intermittent Merit Increase" -- An Intermittent Merit Increase is an increase in monthly base salary, other than the annual merit increase awarded to a merit compensation employee based on performance.

"Maximum Rate of Pay" -- The highest rate of pay below the "Merit Pay Zone" for a particular given salary range.

"Merit Pay Zone Limit" -- The highest rate of pay for a particular salary range within the Merit Compensation Salary Schedule.

"Midpoint Salary" -- The rate of pay that divides the rate range of a salary range into two equal parts.

"Minimum Rate of Pay" -- The lowest rate of pay for a given salary range. Normally the minimum rate of pay represents the salary to be paid a qualified employee who is appointed to a position in a class assigned to a given salary range.

"Performance Review" -- The required review of an employee's on-the-job performance as measured by a specific set of criteria.

"Performance Review Date" -- The date on which the annual merit increase must be made effective if a performance review indicates it is appropriate. Actual performance review procedures are to be completed prior to the effective date of any recommendation to allow sufficient time for the records to be processed by the originating agency.

"Promotion" -- The appointment of an employee, with the approval of the agency and the Department of Central Management Services, to a vacant position in a class in a higher salary range than the former class.

"Reallocation" -- The change in the classification of a position resulting from significant changes in assigned duties and responsibilities.

"Reevaluation" -- The assignment of a different salary range to a

class of positions based upon a change in relation to other classes or to the labor market.

"Salary Range" -- The dollar values encompassed by the minimum and maximum rates of pay of a salary range assigned to a class title.

"Transfer" -- The assignment of an employee to a vacant position in a class having the same salary range.

"Work Year" -- That period of time determined by the agency and filed with the Department of Central Management Services in accordance with 80 Ill. Adm. Code 303.300 of the Department of Central Management Services.

(Source: amended at 20 Ill. Reg. 9925, effective JULY 1 1996)

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Section 310. APPENDIX A Negotiated Rates of Pay

Section 310. TABLE F RC-019 (Teamsters Local #25)

A) Department of Transportation - Division of Highways - Downstate - (All Counties Other Than Cook, DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will)

	July 1, 1994	July 1, 1995	July 1, 1996
	Mo. Hrs.	Mo. Hrs.	Mo. Hrs.
Bridge Mechanic	3073.00 17.56	3193.00 18.35	3188.00 19.07
Bridge Tender	2972.00 16.31	2992.00 17.20	3180.00 19.07
Deck Hand	2945.00 16.33	3065.00 17.61	3190.00 18.33
Deck Operator I	3070.00 17.64	3190.00 18.33	3315.00 19.05
Deck Operator II	3200.00 17.93	3340.00 18.62	3365.00 19.34
Highway Maint.-	3169.00 18.21	3299.00 18.90	3414.00 19.62
once Lead Worker			
Highway Maint.-	3186.40 18.31	3322.50 19.15	3483.60 20.02
once Lead Worker			
(Bridge Crew)			
Highway Maint.-	3219.00 18.50	3339.00 19.19	3464.00 19.91
once Lead Worker			
(Lead Lead Worker)			
Highway Maintainer	3040.00 17.47	3160.00 18.16	3285.00 18.88
Highway Maintainer	3057.40 17.57	3203.50 18.41	3354.60 19.28
(Bridge Crew)			
Janitor I	2747.00 15.79	2867.00 16.48	2992.00 17.20
(including Office of			
Administration)			
Janitor II	2778.00 15.97	2898.00 16.66	3023.00 17.37
(including Office of			
Administration)			
Janitor	2948.00 16.94	3068.00 17.63	3193.00 18.35
once Lead Worker			
once			
Janitor	3004.00 17.26	3124.00 17.95	3249.00 18.67
once Lead Worker			
once			
Janitor	2984.00 17.15	3104.00 17.84	3229.00 18.56
(including Office of			
Administration)			
Power Shovel	3139.00 18.04	3259.00 18.73	3384.00 19.45
Operator (Maintenance)			
Power Shovel	3156.40 18.14	3302.50 18.98	3453.60 19.85
Operator (Maintenance)			
(Bridge Crew)			
Security Guard I	2774.00 15.94	2894.00 16.63	3019.00 17.35
(including Office of			
Administration)			
Security Guard II	2922.00 16.22	2942.00 16.91	3067.00 17.63
(including Office of			
Administration)			

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Administration)

Silk Screen Operator

B) Department of Central Management Services - Division of Vehicles - Downstate - (All Counties Other Than Cook, DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will)

	July 1, 1994		July 1, 1995		July 1, 1996	
	MO.	HL.	MO.	HL.	MO.	HL.
Janitor I	2748.00	15.79	2867.00	16.48	2992.00	17.20
Janitor II	2778.00	15.97	2898.00	16.66	3023.00	17.37
Maintenance Equip- ment Operator (all divisions)	3040.00	17.47	3160.00	18.16	3285.00	18.88
Maintenance Worker	2984.00	17.15	3104.00	17.84	3229.00	18.56
Security Guard I	2774.00	15.94	2894.00	16.63	3019.00	17.35
Security Guard II	2822.00	16.22	2942.00	16.91	3067.00	17.63

C) Department of Mental Health and Developmental Disabilities - Lincoln Developmental Center

	July 1, 1994		July 1, 1995		July 1, 1996	
	MO.	HL.	MO.	HL.	MO.	HL.
Labrador Maintenance (all Counties)	2948.00	16.94	3068.00	17.63	3193.00	18.35

D) Departments of Children and Family Services, Corrections, Employment Security, Mental Health and Developmental Disabilities - Administrative Support Unit (all Counties) Statewide Administrative Officer - Corrections (all Counties) Other Than Cook, DuPage, Kane, Kanekee, Kendall, Lake, McHenry and Will

C) Department of Mental Health and Developmental Disabilities - Lincoln Developmental Center

ment Operator

D) Department of Children and Family Services, Corrections, Employment Security, Mental Health and Developmental Disabilities, Public Aid, State Police, State Prison, Veterans Affairs - Downstate, (All Counties Other Than Cook, DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will)

Highway Maintainer	3115.00	17.90	3245.00	18.65	3385.00	19.45
Highway Mainten-	3244.00	18.64	3374.00	19.39	3514.00	20.20
ance Lead Worker						

E) Department of Transportation - Division of Highways - Emergency Patrol - District #8

Power Shovel	3139.00	18.04	3259.00	18.73	3384.00	19.45
(Maintenance)						

F) Department of Natural Resources Conservation

July 1, 1994	July 1, 1995	July 1, 1996	
MO. HL.	MO. HL.	MO. HL.	
Power Shovel (Maintenance)	3139.00 18.04	3259.00 18.73	3384.00 19.45

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 20 Ill. Reg. **9925** effective **JUL 10 1996**)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Secular Textbook Loan
- 2) Code Citation: 23 Ill. Adm. Code 350
- 3) Section Number: Adopted Action:
350.10
Amendment
350.15
Amendment
350.15
- 4) Statutory Authority: 105 ILCS 5/18-17
- 5) Effective Date of Rules: July 12, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: July 10, 1996
- 9) Notice of Proposal Published in Illinois Register: 20 Ill. Reg. 4018; March 8, 1996
- 10) Has JCPR issued a Statement of Objections to amended rule(s)? No
- 11) Differences between proposal and final version: In Section 350.15(e), the phrase "in the specific grade levels to be funded" was added after the word "enrollment" to clarify how the per-pupil expenditure will be calculated.
- 12) Have all the changes agreed upon by the Agency and JCPR been made as indicated in the Agreement letter issued by JCPR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of amendments: P.A. 99-16 added "instructional computer software" as an allowable use of textbook funds and deleted the requirement that a copy of materials purchased under the program be made available to each pupil in a given class or group. As a result of these changes, the process for administering the program and distributing the funds has been amended. Program participants will no longer receive funding based on the number of textbooks they wish to purchase. Rather, funds will be distributed on a per-pupil basis (see Section 350.15(e)).

In addition, Section 350.15(b) was changed to clarify the process by which a student or his or her parents may request textbooks. This change

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

eliminated language that required that the request form contain the location of the school and date of the student's transfer or graduation. This change simplifies the process for parents.

- 16) Information and questions regarding this adopted amendment shall be directed to:

William Jochan
Illinois State Board of Education
100 West Madison Street, Room 701
Springfield, Illinois 62777-0001
Telephone: (217) 782-9374

The full text of the adopted amendment begins on the next page:

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER J: TEXTBOOKS

PART 350

SECULAR TEXTBOOK LOAN

Section	Definition of Terms
350.10	Acquisition Procedures
350.20	Disposition Procedures (Repaired)
350.25	Disposition Procedures (Repaired)
350.30	Fiscal Procedures (Repaired)

AUTHORITY: Implementing and authorized by Section 18-17 of the School Code (105 ILCS 5/18-17).

SOURCE: Adopted September 27, 1976; amended at 2 Ill. Reg. 27, p. 63, effective June 27, 1978; amended at 4 Ill. Reg. 37, p. 770, effective September 6, 1980; modified at 7 Ill. Reg. 13870; amended at 8 Ill. Reg. 2452, effective February 15, 1984; amended at 9 Ill. Reg. 17597, effective November 23, 1991; amended at 20 Ill. Reg. 3951, effective _____.

JUL 12 1996

Section 350.10 Definition of Terms

"Student" means any student in this State who is enrolled in grades kindergarten through 12 at a public school or at a school other than a public school which is in compliance with the compulsory attendance laws of this State and Title VI of the Civil Rights Act of 1964. (Section 18-17 of the School Code (105 ILCS 5/18-17))

"Nonpublic School" means a school other than a public school which is in compliance with the compulsory attendance laws of this State and Title VI of the Civil Rights Act of 1964. (Section 18-17 of the School Code)

"Parent" means a parent or guardian of a child enrolled in a public or nonpublic school.

"School Administrator" means the superintendent of a school district or the chief administrative officer of a nonpublic school.

"School District" means a public school district in the State of Illinois.

"Secular textbook" means any book or book substitute which a pupil uses as a text or text substitute in a particular class or program.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

It shall include is limited to books, reusable workbooks, and manuals, whether bound or in loose-leaf form, and instructional computer software intended as a principal source of study material for a given class or group of students, except when adopted by a State Board of Education or a State Board of Higher Education for use in a school or group of schools. (Section 18-17 of the School Code)

(Source: Amended at 20 Ill. Reg. **9951**, effective **JUL 12 1996**)

Section 330.15 Acquisition Procedures

- a) Students shall not be assessed a fee for any textbook or book substitute provided under the Secular Textbook Loan Program.
- b) Public and nonpublic schools registered with the State Board of Education shall provide parents with a written explanation of the loan program and a copy of the Secular Textbook Loan Request Form. A parent or student may request the loan of a secular textbook(s) by submitting an original request of an individual student request form to the public or nonpublic school where the student is an attendee. The Illinois State Board of Education does not provide individual student request forms; however, said individual request shall contain the following language: "I hereby request the loan of secular textbooks in accordance with Section 18-17 of the School Code. I understand that this request will remain valid so long as my son/daughter is enrolled in (name of school) and that I may at any time withdraw this request." The form also shall contain the name and location of the student and the date of the student's transfer to the public or nonpublic school. The request shall be signed by the parent or student. Requested textbooks shall be those which have been adopted for use in the district and which are available from those companies that are bonded through the State Board of Education listed in the Illinois Textbook Loan Program publication. The State Board of Education shall furnish a year shall provide districts with the list of companies from which materials may be purchased versus their publication annually to update the list of textbooks which are available under the textbook loan program. Textbook publishers shall provide the State Board of Education with any testing or changes in their textbooks by July 15 of each year. No testing or changes in textbooks submitted after September 1 will be accepted for publication in the Illinois Textbook Loan Program.
- d) The State Board of Education shall distribute the textbook Request Form to be completed by schools and the list of bonded companies. Textbook loan program publication to the Regional Offices of Education and to each school district and nonpublic school located in Cook County Superintendents in January of each year. This information shall then be distributed by the Regional Superintendents of Schools

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- e) to each public and nonpublic school in their respective educational service regions. In January of each year, the State Board of Education will identify textbooks to be funded and calculate the per-pupil allocation. Schools shall be notified of the amount of the district's nonpublic school amount available to the students of the district in nonpublic school to be used for the trade levels identified for funding. The per-pupil allocation will be based upon the total amount of funds appropriated for the program and the total statewide public and nonpublic school enrollment in the specific trade levels to be funded, as reflected in the Fall Enrollment and Housing Report for the preceding year. f) The Request Form Textbook requests shall be compiled by the school administrator, and the listed nonpublic school requests shall be compiled by the administrator of each nonpublic school. The requests shall be numbered in descending order of priority for each grade level. The school administrator's signature on the Textbook Request Form shall certify that the request is for the use of the student named on the form, as well as with Article V, Section 3, of the Illinois Constitution, which provides in pertinent part that no funds may be used to help support or sustain any institution controlled by any church or sectarian denomination, and that the students are enrolled in the school(s) requested, and that the students are enrolled in the school(s) requested. g) Each school district and nonpublic school shall submit to the Regional Superintendent on or before March 15 its completed Textbook Request Form. Schools located within the City of Chicago shall submit their Request Forms directly to the State Board of Education, Textbook Loan Program, 100 North First Street, Springfield, Illinois 62701. The Regional Superintendent shall review and approve all Request Forms received by the Regional Superintendent on or before March 20 or before, if possible, by March 25. It is upon determining that the information and signature required on the Request Form have been provided.

- 1) The number of individual textbook requests and the applicable grade level enrollment listed on each form are the same, and the information and signature required on each form have been provided.
- 2) The information and signature required on each form have been provided.
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STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

are available:

- 1) The State Board of Education will inform each Regional Superintendent and each school administrator by May 15 as to the specific textbooks which will be purchased.
- 2) The school administrator shall confirm that the quantity and 7 titles and quantity of all textbooks received are the same as ordered requested. Such confirmation shall be mailed to the State Board of Education within seven (7) days after receipt of the textbooks.
- 3) All textbooks provided through the program shall be listed on an inventory maintained by the State Board of Education. Each school shall identify (stamp) the materials each-textbook received under the program as "Property of the State of Illinois Schools" and return the same to the school district of origin. The school shall follow the procedures to ensure the return of all textbooks from those to whom they have been loaned.

(Source: Amended at 20 Ill. Reg. 9951, effective JUL 12 1996)

Section 350.25 Disposition Procedures

- a) Textbooks received under the Textbook Loan Program loaned-textbooks ~~may not be disposed of out-of-state or sold without the prior approval of the State Board of Education~~ (Section 18-17 of the School Code) as provided in subsections (b) or (c) of this Section.
- b) Disposition of textbooks on loan for five years or less shall be as follows:
 - 1) Textbooks on loan for less than five (5) years that a school district or nonpublic school determines are unsuitable for use shall be disposed of in the following manner:
 - 1) A list of unsuitable textbooks shall be reported by mail to the State Board of Education, giving the International Standard Book Numbers (ISBN), quantity, grade level, and titles of the materials books. If no ISBN is given for the materials, then a description must be provided of the unsuitable materials.
 - 2) The State Board of Education shall attempt to relocate these textbooks to other Illinois schools within three (3) months after receiving the list by mail. Requests for these textbooks shall be honored on a first-come, first-served basis. Based on this effort, the State Board shall make appropriate notification to the sending and/or receiving schools and shall notify all parties in writing. Receiving schools shall be responsible for all transportation arrangements and for all costs incurred in the relocation of the textbooks from the sending school.
 - 3) Textbooks which cannot be relocated to another Illinois school pursuant to subsection (b)(2) of this Section may be disposed of pursuant to the exemption from the Illinois Property Control Act that has been granted by the Director of the Department of

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Central Management Services. A copy of the exemption will be provided to nonpublic schools and school districts that seek to dispose of textbooks pursuant to this subsection.

- c) Disposition of Textbooks on loan for five years or more
 - 1) Textbooks on loan for five (5) or more years may be disposed of in such a manner as the school board or nonpublic school determines, including out-of-state disposal or sale, provided that:

- 1) The school administrator provides written notification to the State Board of Education of the school district's or nonpublic school's intent to dispose of the textbooks. Such notification shall provide a list of unsuitable textbooks, which shall be reported by mail to the State Board of Education, giving the International Standard Book Numbers (ISBN), quantity, grade level, and titles of the materials books. If no ISBN is given for the materials, then a description must be provided of the unsuitable materials.

- 2) Notification shall be sent to the State Board of Education by certified U.S. mail, return receipt requested.

- 3) Textbooks shall not be disposed of in less than 30 days following notification to the State Board. The date of delivery on the return receipt shall constitute the date of notification. If the State Board of Education identifies a disposition that better conserves public resources or better serves the interests of the public, then it shall, within 30 days after notification, arrange to relocate the textbooks to other Illinois schools. Based on this effort, the State Board shall make appropriate notification to the sending and/or receiving schools and shall notify all parties in writing. Receiving schools shall be responsible for all transportation arrangements and for all costs incurred in the relocation of the books as indicated in the notice to the State Board of Education.

- 4) The school administrator shall notify the State Board in writing of the date and manner of final textbook disposition.

(Source: Amended at 20 Ill. Reg. 9951, effective JUL 12 1996)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Preferred Provider Program Administrators

- 2) Code Citation: 50 Ill. Adm. Code 6501

- 3) Section Number: Adopted Action:

6501.10	Repealed
6501.20	Repealed
6501.30	Repealed
6501.40	Repealed
6501.50	Repealed
6501.60	Repealed
6501.70	Repealed
6501.80	Repealed
6501.90	Repealed
6501.100	Repealed

- 4) Statutory Authority: Implementing and authorized by Article XX 1/2 and further authorized by Section 401 of the Illinois Insurance Code (215 ILCS 5/370f et seq. and 401).

- 5) Effective Date of Repealer: July 15, 1996

- 6) Does this Repealer contain an automatic repeal date? No

- 7) Does this Repealer contain incorporations by reference? No

- 8) Date filed in Agency's Principal Office: July 15, 1996

- 9) Notice of Proposal Published in Illinois Register: March 1, 1996, 20 Ill. Reg. 3677

- 10) Has ICAR issued a Statement of Objections to this Repealer? No

- 11) Difference(s) between proposal and final version: No substantive changes were made.

- 12) Have all changes agreed upon by the agency and ICAR been made as indicated in the agreement letter issued by ICAR? The Department did not agree to make any changes at the request of ICAR.

- 13) Will this Repealer replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of rulemaking: The Department will be moving this Part to subchapter 2 under new Part number 2051. This rule implements Section 370f of the Illinois Insurance Code and this rule therefore belongs in subchapter 2 entitled "Accident and Health Insurance".

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

- 16) Information and questions regarding this adopted Repealer shall be directed to:

Denise Fuchs
Rules Unit Supervisor
Department of Insurance
320 West Washington
Springfield, IL 62767-0001
(217) 783-9560

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

1) Heading of the Part: Preferred Provider Program Administrators

2) Code Citation: 50 Ill. Adm. Code 2051.

3) Section Number: Adopted Action:
 2051.10 Adopted
 2051.20 Adopted
 2051.30 Adopted
 2051.40 Adopted
 2051.50 Adopted
 2051.60 Adopted
 2051.70 Adopted
 2051.80 Adopted
 2051.90 Adopted
 2051.100 Adopted

4) Statutory Authority: Implementing and authorized by Article XXI/2 and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/370f et seq. and 401].

5) Effective Date of Rule: July 15, 1996

6) Does this Rule contain an automatic repeal date? No

7) Does this Rule contain incorporations by reference? No

8) Date filed in Agency's Principal Office: July 15, 1996

9) Notice of Proposal Published in Illinois Register: March 1, 1996, 20 Ill. Reg. 4025

10) Has JCAR issued a Statement of Objections to this Rule? No

11) Difference(s) between RCOROL and final version:

- Section 2051.30 - "Preferred Provider Arrangements" - On the last line change "insured" to "insureds".
- Section 2051.50(c) 1-7 - Delete "and" following the semicolon.
- Section 2051.70(b)(6)(C)(iii) - Delete "and" following the semicolon.
- Section 2051.70(b)(7) - Add "Recordkeeping" following "7)".
- Section 2051.80(a) 1 and 2 - Delete "and" following semicolon.
- Section 2051.80(a)(4) - On the last line change "administrators" to "administrator's".

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

12) Have all changes aired upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this Rule replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The Department is renumbering this new Part 2051 from old Part 6301. Substantively there is no difference between the two rules, the Department is simply moving this regulation to correspond to the statutory provisions which this rule implements.

16) Information and questions regarding this adopted Rule shall be directed to:

Denise Fuchs
 Rules Unit Supervisor
 Department of Insurance
 320 West Washington
 Springfield, Illinois 62767-0001
 (217) 785-9560

The full text of the Adopted Rule begins on the next page.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE

CHAPTER 1: DEPARTMENT OF INSURANCE

SUBCHAPTER 2: HEALTH CARE REIMBURSEMENT

PART 2051

PREFERRED PROVIDER PROGRAM ADMINISTRATORS

Section	
2051.10 Authority	
2051.20 Purpose	
2051.30 Definitions	
2051.40 Administrators Not to Assume Underwriting Risk	
2051.50 Registration	
2051.60 Annual Registration Fee	
2051.70 Fiduciary and Bonding Requirements	
2051.80 Maintenance of Records	
2051.90 Expiration	
2051.100 Severability	

AUTHORITY: Implementing and authorized by Article XX 1/2 and further authorized Section 401 of the Illinois Insurance Code [215 ILCS 5/370f et seq. and 401].

SOURCE: Adopted at 20 Ill. Reg. 9960 = effective JUL 15 1998.

Section 2051.10 Authority

This Part implements and is authorized by Article XX 1/2 and is authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/370f et seq. and 401].

Section 2051.20 Purpose

The purpose of this Part is to implement Article XX 1/2 of the Illinois Insurance Code which, in part, provides for the regulation of administrators of preferred provider programs. This Part defines the authority of an administrator to operate preferred provider programs in this State, establishes criteria for the registration of administrators with the Director of Insurance and establishes an annual registration fee. This Part applies only to administrators of preferred provider programs subject to Article XX 1/2 of the Illinois Insurance Code.

Section 2051.30 Definitions

"Administrator" means any person, partnership or corporation, other than an insurer or health service corporation or health maintenance organization holding a certificate of authority under the "Health

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

Maintenance Organization Act" [215 ILCS 126/1-1 et seq.], or self-insured employer, employee benefit trust fund or other ERISA plan, contract, arrangement, or agreement, contract with or without an incentive to use the services of such provider. Beneficiaries are provided an incentive to use the services of such provider.

"Beneficiary" means an individual entitled to reimbursement for covered expenses of health care services under a program where the beneficiary has an incentive to utilize the services of a provider which has entered into an agreement or arrangement with an administrator.

"Health Care Services" means health care services or products rendered or sold by a provider within the scope of the provider's license or certification. The term includes, but is not limited to, medical, hospital, medical, surgical, dental, vision and pharmaceutical services or products.

"Health Service Corporation" means a hospital service corporation, medical service plan, voluntary health service plan, vision service plan, dental service plan, or pharmaceutical service plan licensed under the applicable Sections of Chapter 215 of the Illinois Compiled Statutes.

"Financial Institution" means a Federal or State chartered bank(s) or savings and loan institution.

"Provider" means an individual or entity duly licensed or legally authorized to provide health care services.

"Preferred provider" means any provider who has entered into an agreement with an administrator relating to health care services which may be rendered to beneficiaries under a preferred provider program.

"Preferred Provider Arrangements" means policies, agreements or arrangements with providers relating to the amounts to be charged to insureds or beneficiaries for health care services which can include incentives for the insured or beneficiary to use such services.

"Preferred Provider Program" means a system to make preferred provider arrangements available to insureds or beneficiaries.

Section 2051.40 Administrators Not to Assume Underwriting Risk

An administrator may negotiate and make arrangements with providers in compliance with Article XX 1/2 of the Illinois Insurance Code, and market and otherwise make available such arrangements to insurance companies, health service corporations, fraternal benefit societies or self-insuring employers or

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

health and welfare trust funds and to their subscribers; provided however, that in performing such functions the administrator shall not accept any underwriting risk in the form of a premium of capitation payment for its services.

Section 2051.50 Registration

- a) No person, partnership or corporation shall act as an administrator of a preferred provider program until such time that such person, partnership or corporation has registered with the Director of Insurance as required by this Part. In addition, all administrators shall annually register with the Director of Insurance as required by this Part. Annual registration statements must be filed with the Director no later than March 1st of each year.
- b) Each administrator must keep current the information required to be disclosed in its registration statements by reporting all material changes or additions to the Director of Insurance within 30 days after the end of the month of each change or addition. A material change or addition is any modification of the following information in the registration statement, excluding typographical corrections: Changes in the administrator's name, address, telephone number, or office location; changes in the administrator's terms and conditions of administrative and provider agreements; changes to the preferred provider program and disclosure statements; changes in bond or fiduciary accounts and changes to the location of the administrator's office.
- c) Each applicant for registration shall file with the Director of Insurance the following information and documents on form IPA-1 prescribed by the Director:
 - 1) A general statement of the services to be offered through the administrator's proposed plan of operations, including the method of marketing the program and the geographic area proposed to be serviced by the program;
 - 2) A list of the names, addresses, official positions and biographical affidavits of the persons responsible for the conduct of the affairs of the administrator;
 - 3) Sample copies of administrative agreements and provider agreements utilized by the administrator, if the terms and conditions in such agreements may vary; the filing of one sample copy of each agreement is sufficient to satisfy this requirement; all variable terms and conditions will satisfy this requirement;
 - 4) A roster of preferred providers and a source for the beneficiary to contact regarding changes in such providers;
 - 5) A general description of the means by which the administrator assures that the health care services to be rendered under the preferred provider program are reasonably accessible and available to beneficiaries;
 - 6) Copies of the preferred provider program disclosure statements required to be furnished to beneficiaries by Section 370m of the

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- 7) Illinois Insurance Code, and corollary advertising material; resolution of questions, complaints and grievances;
- 8) A description of any fiduciary account established by the administrator, including the location and identification number of the account, established and maintained pursuant to Section 370m of the Illinois Insurance Code and Section 2051.70(a) of this Part, and/or a bond in compliance with Section 370m of the Illinois Insurance Code and Section 2051.70(b) of this Part. If a bond is submitted, the administrator shall also furnish a certification of the total estimated annual reimbursements under the preferred provider program(s), supported by the methodology used to arrive at such figures, and
- 9) Location of the administrative offices of the administrator in this State and regular business hours during which offices are open.
- d) No administrator shall offer any preferred provider program to residents of this State until the Director has determined that the requirements of Article XX 1/2 of the Illinois Insurance Code and this Part have been met, and has placed such registration material on file with the Director. The Director shall make such determination within 60 days after receipt of the registration information required by this Section and the registration fee required by Section 2051.60 of this Part.
- e) All information filed with the Director pursuant to this Part regarding methods and/or amounts of reimbursement of providers and the administrator under the preferred provider program(s) is deemed to be confidential and will not be released without subpoena or written consent to the affected administrator.

Section 2051.60 Annual Registration Fee

Each administrator doing business in this State shall pay to the Director of Insurance a registration fee of \$100.00 on the initial date of application for registration and annually thereafter on or before March 1st of each succeeding year so long as such registration is maintained.

Section 2051.70 Fiduciary and Bonding Requirements

- a) This Section outlines requirements for administrators who must establish either a bond or a fiduciary account pursuant to Section 370(l) of the Illinois Insurance Code.
- b) Administrators who establish and maintain a fiduciary account pursuant to Section 370(l) of the Illinois Insurance Code are subject to the following requirements:
 - 1) Monies collected for reimbursement under preferred provider programs which an administrator holds more than 15 days shall be deposited in a special fiduciary account in a financial institution located in this State, which account shall be

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designated as an "Administrator Trust Fund", hereinafter referred to as "ATF". All checks drawn on the ATF shall indicate on their face that they are drawn on the ATF of the administrator.

2) An administrator that operates more than one preferred provider program may establish separate fiduciary accounts for each program, provided that the administrator maintains a separate account for each program, program, and consolidated administrator Trust Fund account is maintained the administrator's records shall clearly indicate for each program fund deposits and disbursements.

3) No disbursement shall be made from the Administrator Trust Fund account other than payment for provider services under the preferred provider program(s) operated by the administrator and administrative fees due the administrator pursuant to a written agreement.

4) For each preferred provider program for which an ATF is maintained, the balance in the ATF shall at all times be the amount of funds deposited plus accrued interest, if any, less authorized disbursements.

5) Authorized disbursements or income producing, the full nature of the account must first be disclosed to the principal, whether insurer or other payor of services under the preferred provider program, on whose behalf the funds are or will be held. At this time the administrator must procure the written consent and authorization from this principal for the investment of money and retention of interest or earnings.

6) An administrator may place ATF funds in interest bearing or income producing investments and retain the interest or income thereon, providing the administrator obtains the prior written authorization of the principals on whose behalf the funds are to be held. In addition to savings and checking accounts, an administrator may invest in the following:

- Government securities of the United States of America or U.S. Government agency securities with maturities of not more than one year;
- Certificates of deposit, with a maturity of not more than one year, issued by the Federal Deposit Insurance Corporation (FDIC) or Federal Savings and Loan Insurance Corporation (FSLIC), so long as any deposit does not exceed the maximum level of insurance protection provided to certificates of deposits held by such institutions;
- Repurchase agreements with financial institutions or government securities dealers recognized as primary dealers by the Federal Reserve System provided that:
 - collateralized with assets which are allowable investments for ATF funds;
 - The collateral has a market value at the time the repurchase agreement is entered into at least equal to

the value of the repurchase agreement; and

iii) The repurchase agreement does not exceed 30 days;

D) Commercial paper, provided the commercial paper is rated at least P-1 by Moody's Investors Service, Inc. or at least A-1 by Standard & Poor's Corporation;

E) Money Market Funds, provided the money market fund invests exclusively in assets which are allocable investments pursuant to subsections (b)(6)(A) through (D) of this Section for ATF funds;

F) Each investment transaction must be made in the name of the administrator's ATF. The administrator must maintain evidence of any such investments. Each investment transaction must flow through the administrator's ATF.

7) Recordkeeping

A) Administrators shall maintain detailed books and records which reflect all transactions involving the receipt and disbursement of funds in the ATF.

B) The administrator shall maintain a journalizing and posting of such books and records that be maintained on the ATF. All journal entries for receipts and disbursements shall be supported by evidential matter, which must be referenced in the journal entry so that it may be traced for verification. Administrators shall prepare and maintain monthly financial institution account reconciliations of any ATF established by the administrator. The minimum detail required shall be as follows:

i) The sources, amounts and dates of monies received and deposited by the administrator.

ii) The date and person to whom a disbursement is made. If the amount disbursed does not agree with the amount recorded by the administrator, the administrator shall prepare a written record as to the source of the discrepancy.

iii) A description of the disbursement in such detail to identify the source document substantiating the purpose of the disbursement.

C) An Administrator who posts or causes to be posted a bond of indemnity pursuant to Section 370(1) of the Illinois Insurance Code shall so subject to the following requirements:

1) An administrator who operates more than one preferred provider program subject to Article XX 1/2 of the Illinois Insurance Code may maintain a bond of indemnity for any such programs.

2) The bond shall be held by the Director of Insurance in favor of the administrator and payor of services under the preferred provider program. The bond shall be secured by a surety company and payable to any party injured under the terms of the bond.

3) The bond shall be in continuous form and shall be in the amount of not less than 10% of the total estimated annual reimbursements

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under the preferred provider program(s) covered by the bond. The amount of the bond shall be determined in accordance with the methodology submitted by the administrator pursuant to Section 2051.50(c)(8) of this Part.

4) Such bond shall remain in force and effect until the surety is released from liability by the Director or until the bond is cancelled by the surety. The surety may cancel the bond and be released from further liability thereunder upon 30 days written notice in advance to the Director. Such cancellation shall not affect any liability incurred or accrued thereunder before the termination of the 30-day period. Upon receipt of any notice of cancellation, the Director shall immediately notify the administrator.

Section 2051.60 Maintenance of Records

a) All administrators shall maintain detailed books and records of all of their transactions as an administrator of preferred provider programs. The records required to be maintained by this Section shall include:

- 1) the books and records of ATP transactions required by Section 2051.70 of this Part;
 - 2) books and records regarding all funds received or disbursed by the administrator;
 - 3) all contracts or agreements with providers, insurers or other payors of the services under a preferred provider program; and
 - 4) All documents relating to the administrator's preferred provider program, including but not limited to beneficiary disclosure documents required by Section 370m of the Illinois Insurance Code, beneficiary complaints and documents relating to the administrator's Standardized Provider Payment Program.
- b) Records shall be maintained for at least three years after the termination of the preferred provider program to which they relate.

Section 2051.90 Examination

a) The Director or his designee may examine any applicant for registration or any registrant when he obtains information which gives him reason to believe that the applicant or registrant may be in violation of this Part or any applicable provision of the Illinois Insurance Code, when he receives a complaint or when the applicant has a history of violations of the Illinois Insurance Code.

b) Any administrator being examined shall provide to the Director or his designee convenient and free access, at all reasonable hours at their offices, to all books, records, documents and other papers relating to their insurance business activities. The Director or his designee shall not release any information obtained from such examination except as provided by the Medical Studies Act (735 ILCS 5/8-2101 et seq.).

c) The Director or his designee may administer oaths and thereafter

d) examine any individual about the business of the administrator. The expenses of examination under this Section shall be assessed against the administrator being examined in accordance with Section 408(3) of the Illinois Insurance Code (215 ILCS 5/408(3)).

e) The examiner designated by the Director shall make a written report if he alleges that there is a violation of this Part, any applicable provisions of the Illinois Insurance Code or any other applicable Part of Title 50 of the Illinois Administrative Code. The report shall be verified by the examiner. The report must be made to the Director within 15 days after the conclusion of the examination. If no report is to be made, the administrator shall be so notified.

f) If a report is made, the Director shall either deliver a duplicate thereof to the administrator being examined or send such duplicate by certified or registered mail to the administrator's address as shown on the record maintained by the Director. The Director shall afford the administrator an opportunity to request a hearing to object to the receipt of the duplicate of the examination report by giving the Director written notice of such request together with written objections to the report. Any hearing shall be conducted in accordance with Sections 402 and 403 of the Illinois Insurance Code (215 ILCS 5/402 and 403) and 50 Ill. Adm. Code 2102. The right to a hearing is waived if the delivery of the report is refused or the report is otherwise undeliverable to the address on file with the Department or the administrator does not timely request a hearing. After the hearing or upon expiration of the time period during which an administrator may request a hearing, if the examination reveals that the administrator is operating in violation of any applicable provisions of the Illinois Insurance Code, any applicable Part of Title 50 of the Illinois Administrative Code or the Illinois Insurance Code, the Director, in the written order, may require the administrator to take action to correct such violation in accordance with the report or examination hearing. If the Director issues an order, it shall be issued within 90 days after the report is filed, or if there is a hearing, within 90 days after the conclusion of the hearing. The order is subject to review under the Administrative Review Law.

Section 2051.100 Severability

If any Section, term or provision of this Part shall be adjudged invalid by a court of competent jurisdiction for any reason, such judgment shall not affect, impair or invalidate any other Section, term or provision of this Part, and the remaining Sections, terms and provisions shall be and remain in full force and effect.

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: General Assistance
- 2) Code Citation: 89 Ill. Adm. Code 114
- 3) Section Numbers: Adopted Action:
114.351 Amendment
114.352 Amendment
114.353 Amendment
- 4) Statutory Authority: Section 12-1.3 of the Illinois Public Aid Code [305 ICS 5/12-1.3]
- 5) Effective Date of Amendments: July 10, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: July 10, 1996
- 9) Notice of Proposal Published in Illinois Register: March 15, 1996 (20 Ill. Reg. 4237)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between Editorial and final version: No changes have been made in the text of the proposed amendments.
- 12) Have all the changes listed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect? Yes
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The Department is increasing the Transitional Assistance Payment from \$60 per month to \$114 per month effective July 10, 1996. The Department is also changing the Fiscal Year 1996, the General Assembly made several changes to the Interim Assistance and Transitional Assistance programs. The Interim Assistance program was eliminated. Several categories of the Transitional Assistance program were eliminated. A new category of Transitional Assistance was created to encompass some, though by no means all, of the clients who are or would have been on Interim Assistance. Finally, the legislature made it clear that only \$20,000,000 was being appropriated for Transitional Assistance cash grants and the Department would be expected not to exceed that amount, even if cash grants had to be cut in the future.

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The Department attempted to predict the eventual average caseload size taking into account all the changes that were made. It has become clear that the actual caseload size has fallen below those projections. Therefore, there is money available within the \$20,000,000 appropriation to provide a grant increase to Transitional Assistance clients. Based on actual caseload size for July-January, a more accurate estimate of caseload for the remainder of FY 96 and for FY 97 can be made. Based on this, the payment level can be increased to \$130 effective February 1996 and can remain at that level for FY 97 and stay within the \$20,000,000 appropriation.

Regular roll payments for March will reflect the increase. Supplemental payments of \$40 will be made to those clients on the regular rolls for February 1996.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Umuna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, IL 62762
(217) 524-3081

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER 1: DEPARTMENT OF PUBLIC AID
SUBCHAPTER B: ASSISTANCE PROGRAMS

PART 114

GENERAL ASSISTANCE

SUBPART A: GENERAL PROVISIONS

Section	
114.1	Description of the Assistance Program
114.1	Determination of Not Employable
114.2	Advocacy Program for Persons Receiving State Transitional Assistance
114.5	Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
114.9	Client Cooperation
114.10	Citizenship
114.20	Residence
114.30	Age
114.40	Relationship
114.50	Living Arrangement
114.52	Social Security Numbers
114.60	Work Registration Requirements (Outside City of Chicago only)
114.61	Individuals Exempt From Work Registration Requirements (Outside City of Chicago only)
114.62	Job Service Registration (Outside City of Chicago only)
114.63	Failure to Maintain Current Job Service Registration (Outside City of Chicago only)
114.64	Responsibility to Seek Employment (Outside City of Chicago only)
114.70	Initial Employment Expenses (Outside City of Chicago only)
114.80	Downtate General Assistance Work and Training Programs
114.85	Downtate General Assistance - Food Stamps Employment and Training Pilot Project
114.90	Project Chance Participation/Cooperation Requirements (Renumbered)
114.90	General Assistance Jobs Program (Repealed)

SUBPART C: PROJECT ADVANCE

Section	
114.108	Project Advance
114.109	Project Advance Participation Requirements of Adjudicated Fathers

Section	
114.110	Project Advance Cooperation Requirements of Adjudicated Fathers

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TITLE 89: SOCIAL SERVICES
CHAPTER 1: DEPARTMENT OF PUBLIC AID
SUBCHAPTER B: ASSISTANCE PROGRAMS

SUBPART D: EMPLOYMENT AND TRAINING REQUIREMENTS

Section	
114.120	Employment and Training Requirements
114.121	Persons Required to Participate in Project Chance (Repealed)
114.122	Advocacy Program for Persons Who Have Applied for Supplemental Security Income (SSI) Under Title XVI of the Social Security Act (Repealed)
114.123	Persons in Need of Work Rehabilitative Services (WRS) to Become Employable (Repealed)
114.124	Employment and Training Participation/Cooperation Requirements (Repealed)
114.125	Employment and Training Program Orientation (Repealed)
114.126	Employment and Training Program Full Assessment Process/Development of an Employment Plan (Repealed)
114.127	Employment and Training Program Components (Repealed)
114.128	Employment and Training Sanctions (Repealed)
114.129	Good Cause for Failure to Cooperate With Work and Training Participation Requiring Sanctions (Repealed)
114.130	Employment and Training Supportive Services (Repealed)
114.135	Conciliation and Fair Hearings (Repealed)
114.140	Employment Child Care (Repealed)

SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

Section	
114.200	Unearned Income
114.201	Budgeting Unearned Income
114.202	Application And/or Date of Decision
114.203	Initial Receipt of Unearned Income
114.204	Termination of Unearned Income
114.205	Unearned Income
114.210	Unearned Income In-Kind
114.221	Unearned Income In-Kind
114.222	Unearned Income In-Kind
114.223	Lump Sum Payments
114.224	Protected Income
114.225	Earned Income
114.226	Budgeting Earned Income
114.227	Application And/or Date of Decision
114.228	Initial Employment

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114.429	Termination of Employment
114.430	Exempt Earned Income
114.431	Recognized Employment Expenses
114.432	Income From Work Study/Training Program (Repealed)
114.433	Earned Income From Self-Employment
114.434	Earned Income From Room and Board
114.435	Earned Income From Rental Property
114.436	Earned Income From Illinois Department of Children and Family Services
114.437	Budgeting Earned Income For Contractual Employees
114.438	Budgeting Earned Income For Non-Contractual School Employees
114.439	Assets
114.440	Exempt Assets
114.441	Asset Disregards
114.442	Deferral of Consideration of Assets (Repealed)
114.443	Property Transfers (Repealed)
114.444	Supplemental Payments
114.445	
SUBPART F: PAYMENT AMOUNTS	
Section	
114.450	Payment Levels for General Assistance
114.451	Payment Levels in Group I Counties
114.452	Payment Levels in Group II Counties
114.453	Payment Levels in Group III Counties
SUBPART G: OTHER PROVISIONS	
Section	
114.460	Persons Who May Be Included in the Assistance Unit
114.461	Eligibility of Strikers
114.462	Special Needs Authorizations
114.463	Institutional Status
114.464	Respite Care Scheduling
114.465	Budgeting Scheduling
114.466	Limitation on Amount of General Assistance to Recipients from Other States
114.467	Redetermination of Eligibility
114.468	Extension of Medical Assistance Due to Increased Income from Employment
114.469	Attorney's Fees for VA Appellants
114.470	Attorney's Fees for SSI Applicants
114.471	
SUBPART H: CHILD CARE	
Section	
114.480	Child Care
114.481	Child Care Eligibility

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114.454	Qualified Provider
114.455	Notification of Available Services
114.456	Participant Rights and Responsibilities
114.457	Additional Service to Secure or Maintain Child Care Arrangements
114.458	Rates of Payment for Child Care
114.459	Method of Providing Child Care
114.460	
SUBPART I: TRANSITIONAL CHILD CARE	
Section	
114.500	Transitional Child Care Eligibility
114.501	Duration of Eligibility for Transitional Child Care
114.502	Loss of Eligibility for Transitional Child Care
114.503	Qualified Provider
114.504	Notification of Available Services
114.505	Participant Rights and Responsibilities
114.506	Child Care Overpayments and Recoveries
114.507	Fees for Service for Transitional Child Care
114.508	Rates of Payment for Transitional Child Care

AUTHORITY: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code (305 ICS 5/Art. VI and 12-13).

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978; for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 41, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 21, 1979; amended at 3 Ill. Reg. 40, p. 110, effective October 1, 1979; amended at 3 Ill. Reg. 47, p. 36, effective November 1, 1979; amended at 3 Ill. Reg. 48, p. 1, effective February 22, 1980; amended at 4 Ill. Reg. 9, p. 259, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 737, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 114, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 122, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at

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SIZE OF ASSISTANCE UNIT	AND CHILD(REN) CURRENT	CHILD(REN) CURRENT
1	160	37
2	269	134
3	365	242
4	403	311
5	471	369
6	523	397
7	557	427
8	588	459
9	619	491
10	651	525
11	685	561
12	721	599
13	760	
14	799	
15	841	
16	886	
17	934	
18	982	

2) The Transitional Assistance case payment level in Group II counties is \$100.99.

c) For family sizes greater than 18 or 12, the amount of the payment level shall be determined by adding \$48.00 or \$38.00 respectively for each person above 18 or 12.

d) As the legislature has determined that payments under the GA program should contain amounts for the purpose of energy assistance, and has directed that such amounts be established by rule, the first \$5 of the GA Payment Level for Caretaker Relative and Children, Family size of 1, and the first \$16 of the GA Payment Level for Caretaker Relatives and Children of other family sizes has been designated as being for the purpose of energy assistance.

(Source: Amended at 20 Ill. Reg. 9970 effective JUL 10 1996)

Section 114.353 Payment Levels in Group III Counties

a) The following payment levels are established for the GA program in Group III Counties.

b) The counties included in Group III are:

Alexander	Edgar	Jasper	Montgomery	Shelby
Bond	Edwards	Jefferson	Perry	Stark
Brown	Rayette	Jersey	Union	Washington
Calhoun	Franklin	Johnson	Rope	

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Cass	Gallatin	Lawrence	Pulaski	Wayne
Christian	Greene	Marton	Randolph	White
Clark	Hamilton	Marshall	Richland	Williamson
Clay	Hancock	Massac	Schuyler	
Crawford	Hardin	Massac	Schuyler	
Cumberland	Henderson	Menard	Scott	

1) Family and Children Assistance Case Payment Levels

SIZE OF ASSISTANCE UNIT	CARETAKER RELATIVE(S) AND CHILD(REN) CURRENT	CHILD(REN) ONLY CURRENT
1	154	94
2	257	188
3	349	272
4	438	353
5	453	359
6	511	387
7	538	414
8	566	445
9	597	477
10	628	510
11	662	545
12	696	581
13	733	
14	771	
15	812	
16	855	
17	900	
18	948	

2) The Transitional Assistance case payment level in Group III counties is \$100.99.
c) For family sizes greater than 18 or 12, the amount of the payment level shall be determined by adding \$48.00 or \$36.00 respectively for each person above 18 or 12.

d) As the legislature has determined that payments under the GA program should contain amounts for the purpose of energy assistance, and has directed that such amounts be established by rule, the first \$18 of the GA Payment Level for Caretaker Relative and Children of all family sizes except the family size of 1 has been designated as being for the purpose of energy assistance.

(Source: Amended at 20 Ill. Reg. 9970 effective JUL 10 1996)

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Community Living Facilities
- 2) Code Citation: 77 Ill. Adm. Code 370
- 3) Section Numbers: Adopted Action:
370-735 New Section
- 4) Statutory Authority: Community Living Facilities Act [210 ILCS 35]
- 5) Effective Date of Rules: July 15, 1996
- 6) Does this Rulemaking Contain an Automatic Repeal Date? No
- 7) Does this Rulemaking Contain Any Incorporations By Reference? No
- 8) Date Filed in Agency's Principal Office: July 15, 1996
- 9) Date Notice(s) of Proposal was Published in Illinois Register: January 5, 1996 - 20 Ill. Reg. 187
- 10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this Rule? No
- 11) Difference Between Proposal and Final Version: The following changes were made in response to comments received during the first notice or public comment period:
 1. In line 163 after "[720 ILCS 5]" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3)".
 2. In line 165 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-3, and 10-7)".
 3. In line 167 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4)".
 4. In line 171 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7)".
 5. In line 173 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-13, 12-14, 12-15, and 12-16)".
 6. In line 175 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19)".
 7. In line 177 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21)".

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8. In line 180 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3)".
9. In line 182 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-3)".
10. In line 184 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1)".
11. In line 186 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2)".
12. In line 189 after "and 9)" add "(formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705.1, and 709)".
13. In line 193 after "and 407.1)" add "(formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)".
14. In lines 199 and 200 delete "(l) and" and insert "and (k)" after "(j)".
15. In line 203 change "applicant" to "applicant".
16. In line 206 add close quotation marks after "employment".
17. In line 212 delete "of" and insert "or".
18. In lines 212-213, place the language "means the provisions of nursing or personal care" in italic type.
19. In lines 213-214, delete "(Section 15 of the Health Care Worker Background Check Act)".
20. In line 222 delete "(l)" and insert "(m)".
21. In line 226 after "(c)" add:
If the applicant is on the Department's Nurse Aide Registry in good standing and has had a MCA criminal history record check within the last 12 months, the employer need not initiate another check.
22. In line 230 delete "(l)" and insert "(m)".
23. After line 232 add the following:
f) The agency may accept an authentic MCA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) or (e) of this Section.

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24. In line 233 delete "fi" and insert "ji".
25. In line 237 delete "that" and insert "line".
26. In line 237 before "UCIA" add "non-fingerprint-based".
27. In line 243 delete "li" and insert "ji".
28. In line 245 before "Criminal" add "non-fingerprint-based".
29. In line 251 delete "li" and insert "ji".
30. In lines 252 and 253 delete "li and " and insert "and (k)" after "li".
31. In line 255 before "Criminal" add "non-fingerprint-based".
32. In line 258 insert a space between "he" and "applicant's".
33. In line 259 delete "li" and insert "ji".
34. In line 261 delete "li and " and insert "and (k)" after "li".
35. In line 267 delete "li" and insert "ji".
36. In line 268 delete "li and " and insert "and (k)" after "li".
37. In line 270 delete "li" and insert "ji".
38. In line 274 delete "li" and insert "ji".
39. In line 274 insert "non-fingerprint-based" before "UCIA".
40. In line 282 delete "li" and insert "ji".
41. In line 286 delete "INFORMATION NECESSARY TO INITIATE A" and insert "A completed".
42. In line 287 delete "IN A FORM AND MANNER PRESCRIBED BY THE" and insert "form".
43. In line 288 delete "DEPARTMENT OF STATE POLICE".
44. In line 289 insert "(which the Department will forward to the Illinois State Police)" before "and".
45. In line 290 delete "of" and insert "2" after "check"; add "of facility check" after "order".

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NOTICE OF ADOPTED AMENDMENTS

46. In line 293 delete "li" and insert "ki".
47. In line 302 delete "1 and ".
48. After line 301 add "g" NURSE AIDE REGISTRY RECORDS AND .
49. In line 303 delete "li" and add "ji".
50. In line 308 delete "ki" and add "ji".
51. In line 310 delete "waiver" and insert "waiver".
52. In line 312 delete "li" and add "ji".
53. After line 319 add:
n) The facility shall send a copy of the results of the "UCIA" criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. The facility shall include the individual's Social Security number on the criminal history record check results.
54. In line 320 delete "li" and add "ji".
55. In line 322 after "aides" add "who are on the Department's Nurse Aide Registry".
56. After line 325 add:
b) The agency shall maintain a copy of the employee's criminal history record check results and waiver if applicable, in the personnel file or other secure location accessible to the Department.
57. Each time they appear, lowercase "Criminal History Record Check", "Criminal Records Report", and "Criminal History Record".
The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:
1. In line 163, after "5" add "9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.2 and 9-3.3".
2. In line 239, change "PROVISIONS" to "PROVISION".
3. In line 241, add "(C)" after "Section 10".
4. In line 250, add "(d)" after "Section 10".
5. In line 292, add "(e) and (f)" after "Section 10".

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6. In line 295, add "[a]" after "Section 30".
7. In line 310, add "[a]" after "Section 40".
8. In line 336, add a semicolon at the end.
9. In line 332, add "[b]" after "Section 40".

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? The Department has made all the changes to which it agreed with the Joint Committee.

- 13) Will the Rules Replace an Emergency Rule Currently in Effect? No

- 14) Are there any other Amendments Pending on this Part? No

- 15) **Summary and Purpose of Rules:** The rules in Part 370 establish requirements for the licensure of community living facilities. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 99-197, effective July 24, 1995).

Section 370.715 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," "direct care," and "personal care" as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that require direct care. Facilities are required to complete the UCIA (subsection (e)) checks that January 1, 1997, to initiate UCIA criminal history record checks for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (h). A new subsection (f) added at second notice allows the facility to accept a UCIA background check conducted in the last 12 months. Notification requirements to the applicant or employee are set forth in subsection (g). Subsection (h) contains a provision for conditional employment, and

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NOTICE OF ADOPTED AMENDMENTS

subsection (i) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (j), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (k). Facilities are not obligated to employ applicants who are granted waivers (subsection (l)). A new subsection (n) requires the facility to keep a copy of the background check results and the individual's social security number on file for the Department's review on the Registry. Requirements for retention of records are set forth in subsections (o) and (p).

- 16) Information and questions regarding this Adopted Rulemaking shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-5187

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
 CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
 SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 370

COMMUNITY LIVING FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	General Requirements
370.110	Application for License
370.120	License of an Initial License for a New Facility
370.130	Issuance of an Initial License
370.140	Issuance of a Renewal License
370.150	Denial or Revocation
370.160	Experimental Program Conflicting With Requirements
370.170	Inspections
370.180	Information to Be Made Available to the Public By the Licensee
370.190	Ownership Disclosure
370.200	Variances
370.210	Alcoholism Treatment Programs in Community Living Facilities
370.220	Definitions
370.230	
370.240	

SUBPART B: ADMINISTRATION

Section	Administration
370.400	

SUBPART C: POLICIES

Section	Social and Vocational Training Program Policies
370.510	Admission and Discharge Policies
370.520	Agreement Between Resident and Facility
370.530	General Policies
370.540	Personnel Policies
370.550	

SUBPART D: PERSONNEL

Section	Personnel
370.700	Health Care Worker Background Check
370.710	Personnel Policies
370.720	

SUBPART E: HEALTH MAINTENANCE SERVICES

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Section	Medical Care Policies
370.810	Communicable Disease Policies
370.820	Behavior Emergencies
370.830	Medication Policies
370.840	

SUBPART F: PROGRAM SERVICES

Section	Program Evaluation
370.1010	Program and Services
370.1020	

SUBPART G: RECORDS

Section	General
370.1110	Other Records
370.1120	Confidentiality
370.1130	

SUBPART H: FOOD SERVICE

Section	Food Service
370.1140	Adequacy of Diet
370.1150	Therapeutic Diets
370.1160	Scheduling of Meals
370.1170	Food Preparation and Service
370.1180	Food Handling and Sanitation
370.1190	Kitchen Equipment, Utensils and Supplies
370.1200	

SUBPART I: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section	Maintenance
370.1610	Housekeeping
370.1620	Laundry Services
370.1630	

SUBPART J: FURNISHINGS, EQUIPMENT AND SUPPLIES

Section	Furnishings
370.1810	Equipment and Supplies
370.1820	

SUBPART K: WATER SUPPLY AND SEWAGE DISPOSAL

Section	Codes
370.2010	Water Supply
370.2020	

DEPARTMENT OF PUBLIC HEALTH
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370.2030 Sewage Disposal
370.2040 Plumbing

SUBPART L: DESIGN AND CONSTRUCTION STANDARDS FOR NEW
COMMUNITY LIVING FACILITIES

Section
370.2210 Applicability of Standards
370.2220 Codes and Standards
370.2230 Preparation of Drawings and Specifications
370.2240 Site

370.2250 Administration
370.2260 Bedrooms
370.2270 Nurses' Station
370.2280 Bath and Toilet Rooms
370.2290 Living, Dining Room, and Activity Rooms
370.2300 Kitchen

370.2310 Laundry Room
370.2320 Housekeeping and Storage
370.2330 Building General
370.2340 Exit Facilities and Subdivision of Floor Areas
370.2350 Stairways and Vertical Openings

370.2360 Hazardous Areas
370.2370 Structural
370.2380 Mechanical Systems
370.2390 Plumbing Systems

370.2400 Electrical Systems
370.2410 Fire Alarm and Detection System
370.2420 Emergency Electrical System
370.2430 Fire Protection

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING
COMMUNITY LIVING FACILITIES

Section
370.2510 Applicability of Standards
370.2520 Codes and Standards
370.2530 Preparation of Drawings and Specifications
370.2540 Site

370.2550 Administration and Public Areas
370.2560 Bedrooms
370.2570 Nurses' Station

370.2580 Bath and Toilet Rooms
370.2590 Living, Dining Room, and Activity Rooms
370.2600 Kitchen

370.2710 Laundry Room
370.2720 Housekeeping and Storage
370.2730 Building General

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370.2740 Exit Facilities and Subdivision of Floor Areas
370.2750 Stairways and Vertical Openings
370.2760 Hazardous Areas
370.2770 Structural
370.2780 Mechanical Systems
370.2790 Plumbing Systems
370.2800 Electrical Systems
370.2810 Fire Alarm and Detection System
370.2820 Emergency Electrical System
370.2830 Fire Protection

SUBPART N: RESIDENT'S RIGHTS

Section
370.3010 General
370.3020 Medical and Personal Care Program
370.3030 Restraints
370.3040 Abuse and Neglect
370.3050 Communication and Visitation
370.3060 Resident's Funds
370.3070 Private Right of Action
370.3080 Transfer and/or Discharge
370.3090 Complaint Procedures
370.3100 Confidentiality
370.3110 Facility Implementation

APPENDIX A Program Standards
APPENDIX B Sanitizing Solutions

AUTHORITY: Implementing and authorized by the Community Living Facilities Act
(210 ILCS 35).

SOURCE: Emergency rules adopted at 6 Ill. Reg. 379, effective January 1, 1982, for a maximum of 150 days; adopted at 6 Ill. Reg. 626, effective May 19, 1982, codified at 8 Ill. Reg. 19476; amended at 9 Ill. Reg. 21706, effective December 7, 1984; emergency amendment at 17 Ill. Reg. 9117, effective June 7, 1993; for a maximum of 150 days; amended at 17 Ill. Reg. 39399, effective November 1, 1993; emergency amendments at 10 Ill. Reg. 136, effective January 1, 1996; for a maximum of 150 days; emergency amendments at 29, 1996; amended at 20 Ill. Reg. 9982, effective **JUL 15 1996**.

SUBPART O: PERSONNEL

Section 370.715 Health Care Worker Background Check

a) The facility shall not knowingly hire any individual after January 1, 1996 in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit

RECOMMENDATION OF THE DIRECTOR, HEALTH

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NOTES ON APPROVED AMENDMENTS

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one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act (225 ILCS 46/25)):

- 1) Murder, homicide, manslaughter or concealment of a homicide death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ICS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3]) (formerly III, Rev. Stat. 1931, ch. 36, arts. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, and 9-3.31)
- 2) Kidnaping of child abduction (Sections 10-1, 10-2, 10-5 and 19-7 of the Criminal Code of 1961 [formerly III, Rev. Stat. 1931, ch. 36, arts. 10-1, 10-2, 10-5, and 19-7])
- 3) Unlawful restraint or forcible detention (Sections 10-3, 10-11, 19-9, 39, 39.3, 39.31, 19-3.1, and 10-11)
- 4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-4.8, 12-4.9, 12-4.10, 12-4.11, 12-4.12, 12-4.13, 12-4.14, 12-4.15, 12-4.16, 12-4.17, 12-4.18, 12-4.19, 12-4.20, 12-4.21, 12-4.22, 12-4.23, 12-4.24, 12-4.25, 12-4.26, 12-4.27, 12-4.28, 12-4.29, 12-4.30, 12-4.31, 12-4.32, 12-4.33, 12-4.34, 12-4.35, 12-4.36, and 12-4.37)
- 5) Sexual assault or sexual abuse (Sections 13-1, 12-14, 12-15, and 12-16 of the Criminal Code of 1961 [formerly III, Rev. Stat. 1931, ch. 36, arts. 12-1, 12-14, 12-15, and 12-16])
- 6) Abuse or gross neglect of a non-care facility resident (Section 12-13 of the Criminal Code of 1961 [formerly III, Rev. Stat. 1931, ch. 36, par. 12-19])
- 7) Criminal neglect of an elderly or disabled person (Section 12-1 of the Criminal Code of 1961 [formerly III, Rev. Stat. 1931, ch. 36, par. 12-20])
- 8) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.1, 16A-3, 18-1, 18-2, 18-3, and 19-3 of the Criminal Code of 1961 [formerly III, Rev. Stat. 1931, ch. 36, arts. 16-1, 16-1.1, 16A-3, 18-1, 18-2, 18-3, and 19-3])
- 9) Criminal trespass (Section 19-1 of the Criminal Code of 1961 [formerly III, Rev. Stat. 1931, ch. 36, par. 19-11])
- 10) Access Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [formerly III, Rev. Stat. 1931, ch. 39, arts. 20-1 and 20-1.1]
- 11) Unlawful use of weapons or aggravated discharge of a firearm (Sections 13-2 and 11-2 of the Criminal Code of 1961 [formerly III, Rev. Stat. 1931, ch. 36, arts. 11-2 and 13-2])
- 12) Unlawful delivery of controlled substances (Sections 40-1 and 40-1.1 of the Criminal Code of 1961 [formerly III, Rev. Stat. 1931, ch. 40, arts. 40-1 and 40-1.1])
- 13) Manufacture, delivery or trafficking of controlled substances (Sections 40-1, 40-1.1, 40-4, 40-5, 40-5.1, 40-7 and 40-7.1 of the Criminal Code of 1961 [720 ICS 5/70-40.1, 40-1.1, 40-4, 40-5, 40-5.1, 40-7 and 40-7.1]) (formerly III, Rev. Stat. 1931, ch. 40, arts. 40-1, 40-1.1, 40-4, 40-5, 40-5.1, 40-7 and 40-7.1)

i/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1).

- b) The facility shall not knowingly employ or retain any individual after January 1, 1997 in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this section unless the applicant employee of an employer obtains a waiver pursuant to subsections (1) and (k) of this section. (Section 23 of the Health Care Worker Background Check Act)
- c) For the purpose of this Section:
 - 1) "applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment;
 - 2) "conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction for one of the criminal offenses listed in subsections (a)(1)-(13) of this section;
 - 3) "outlet area" means the provision of nursing or personal care;
 - 4) "personal care" means assistance with meals, dressing, movement, bathing, or other personal needs or maintenance or general supervision and oversight of the physical and mental well-being of a resident. (Section 15 of the Health Care Worker Background Check Act)
- d) Beginning January 1, 1996 when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (a) of this section, for a position with duties that involve direct care for residents, the employer must initiate a Uniform Provision of Information Act (UCIA) criminal history record check for that applicant. Section 30(e) of the Health Care Worker Background Check Act. If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check. No later than January 1, 1997 a facility must initiate a UCIA criminal history record check for all employees who were hired before January 1, 1996 and who are not exempt because of subsection (a) of this section with the exception that inmates affected by Section 30(d) of the Health Care Worker Background Check Act.
- e) The agency may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection d) or (e) of this section.
- f) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint UCIA criminal history record search is made:
 - 1) That the facility shall request a non-fingerprint-based UCIA

CIA criminal history record search is made:
 may the facility shall request a non-fingerint-based NCRA

may one facility must request a non-emergent back criminal history record check pursuant to the Health Care Worker

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- Background Check Act.
- 2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (c) of this Section.
 - 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j) and (k) of this Section.
 - 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j) and (k) of this Section.
 - 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j) and (k) of this Section.
 - 6) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a WCRA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)
 - 7) An applicant or employee whose non-fingerprint-based WCRA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section may request the facility or the Department to commence a fingerprint-based WCRA criminal records check by submitting information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)
 - 8) An applicant or employee who requests a waiver to subsection (a) or (b) of this Section by submitting the following to the Department within 30 days after the receipt of the criminal records report:
 - 1) A completed fingerprint-based WCRA criminal records check form

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- (Section 10(b) of the Health Care Worker Background Check Act) which the Department will forward to the Illinois State Police, and
- 2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based WCRA criminal records check.
- The Department may grant a waiver based on mitigating circumstances, which may include:
- 1) The date at which the crime was committed;
 - 2) The circumstances surrounding the crime;
 - 3) The length of time since the conviction;
 - 4) The applicant's or employee's criminal history since the conviction;
 - 5) The applicant's or employee's work history;
 - 6) The applicant's or employee's current employment references;
 - 7) The applicant's or employee's character references;
 - 8) Worksite security records; and
 - 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 10(b) of the Health Care Worker Background Check Act)
- A facility is not obligated to employ or offer permanent employment to an applicant, or retain an employee who is granted a waiver. (Section 10(d) of the Health Care Worker Background Check Act)
- This Section shall not apply to:
- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law, or
 - 2) Individual employed or retained by a health care employer for whom criminal background check is required by another law of this State. (Section 20 of the Health Care Worker Background Check Act)
- The facility shall send a copy of the results of the WCRA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 10(b) of the Health Care Worker Background Check Act)
- The facility shall include the individual's Social Security number on the criminal history record check results.
- The facility shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nurse aides who are on the Department's Nurse Aide Registry. The file shall be subject to inspection by the Department. A fine of \$500 shall be assessed for failure to maintain these records. (Section 30 of the Health Care Worker Background Check Act)
- The Department shall include the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

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Control Board, applies the referenced rules to non-community water systems and deletes a reference to rules that have been repealed by the Board.

- 16) Information and Questions Regarding this Adopted Rulemaking Should be Directed to:

Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-6361

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER I: WATER AND SEWAGE

PART 300

DRINKING WATER SYSTEMS CODE

Section	Definitions
900.10	Approved and Referenced Materials
900.20	General Requirements
900.30	Special Requirements
900.40	Water System Design
900.50	Inorganic Chemicals (Repealed)
900.60	Turbidity (Repealed)
900.65	Organic Chemicals (Repealed)
900.70	Microbiological (Repealed)
900.80	Public Notification (Repealed)
900.90	Record Maintenance and Reporting (Repealed)
900.100	Variances and Exemptions (Repealed)
TABLE A	Sources of Pollution in Location to Wells and/or Finished Water Storage Facilities
TABLE B	Design Criteria for a Non-Community Public Water System
TABLE C	Pressure Factors
TABLE D	Coliform Sampling Frequency According to Population Served (Repealed)
TABLE E	Lead and Copper Sampling Frequency-Requirements for First Year of Sampling (Repealed)
TABLE F	Lead and Copper Sampling Frequency-Requirements After First Year of Sampling (Repealed)
TABLE G	Water Quality Sampling Requirements (Repealed)
TABLE H	Water Quality Sampling Requirements-Reduced Sampling (Repealed)
TABLE I	Table of Factors to be Used in Saturation Index Calculations (Repealed)
EXHIBIT A	Values of A Based Upon Total Solids (Repealed)
EXHIBIT B	Values of B Based Upon Water Temperature (Repealed)
EXHIBIT C	Values of C Based Upon Calcium Hardness Expressed as CaCO ₃ (Repealed)
EXHIBIT D	Values of D Based Upon Alkalinity Expressed as CaCO ₃ (Repealed)

AUTHORITY: Implementing and authorized by Section 3 of the Illinois Groundwater Protection Act (415 ILCS 55/3).

SOURCE: Adopted at 6 Ill. Reg. 1215, effective February 3, 1982; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 1301, effective March 21, 1984; amended at 9 Ill. Reg. 2139, effective June 3, 1985; amended at 13 Ill. Reg. 12570, effective August 1, 1989; amended at 14 Ill. Reg. 1841, effective September 1, 1990; amended at 17 Ill. Reg. 0360, effective March 23,

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1993: amended at 19 Ill. Reg. 7217, effective May 31, 1995; emergency amendment at 20 Ill. Reg. 3968, effective February 16, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 9997, effective JUL 22 1996

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

Section 900.15 Incorporated and Referenced Materials

a) The following State regulations are referenced in various Sections--of

1) Department of Public Health rules

34) Certification and Operation of Environmental Laboratories
35) (35 Ill. Adm. Code 181.105) Illinois-Department-of-Public Health

36) Illinois Water Well Construction Code (77 Ill. Adm. Code

920) Illinois-Department-of-Public-Health

37) Illinois Water Well Pump Installation Code (77 Ill. Adm.

Code 325) Illinois-Department-of-Public-Health

38) Surface Source Water Treatment Code (77 Ill. Adm. Code 930)

39) Illinois-Department-of-Public-Health

40) Illinois Plumbing Code (77 Ill. Adm. Code 890) Illinois

Department-of-Public-Health

41) Illinois Pollution Control Board Rules

42) Illinois-Department-of-Public-Health

43) Illinois-Department-of-Public-Health

44) Illinois-Department-of-Public-Health

45) Illinois-Department-of-Public-Health

46) Illinois-Department-of-Public-Health

47) Illinois-Department-of-Public-Health

48) Illinois-Department-of-Public-Health

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69) Illinois-Department-of-Public-Health

70) Illinois-Department-of-Public-Health

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

JUL 22 1996

Section 900.20 General Requirements

a) Coverage. This Part shall apply to all non-community public water systems.

b) Exception. This Part shall not apply to a public water system which meets all of the following conditions:

1) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities).

2) Obtains all of its water from, but is not owned or operated by a public water system to which such regulations apply.

3) Is not a carrier which conveys passengers in interstate commerce.

4) Is not a carrier which conveys passengers in interstate commerce.

5) Consists of a public water system. The Department shall modify the monitoring requirements if one sampling point can be shown to be representative of the water supply and the supply can be shown to have a contamination free sampling history to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes. Any modification in monitoring shall be approved in writing by the Department.

6) Permit to Construct. A permit to construct a non-community public water system must be obtained from the Department prior to construction. Where a water well is to be constructed, altered or extended, a permit fee, which is established in Section 900.10 of the Illinois Water Well Construction Code, shall be required for the water well.

7) Permit to Alter or Extend. A permit for any major alteration of, or extension of, a non-community public water system must be obtained from the Department prior to construction. Where a water well is to be constructed, altered or extended, a permit fee, which is established in Section 900.10 of the Illinois Water Well Construction Code, shall be required for the water well.

8) Plans and Specifications. The plans and specifications must indicate all sources of contamination, the layout and design of the system and all associated equipment which will indicate compliance with this Part as stated in Section 900.10.

9) Major Alterations or Extensions. Major alterations or extensions shall include, but not be limited to, the following:

1) Change in source of water supply.

2) Construction of additional sources of water supply.

3) Provision of any new treatment to the system.

4) Changes in system capacity.

5) Increase in the water well depth.

6) Notification of Completion. Upon completion of any construction for which a permit has been issued, the owner shall notify the Department of System Disinfection. All components of new construction or public water system construction, alteration, or expansion shall be disinfected

(Source: Amended at 20 Ill. Reg. 9997, effective

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with a strong chlorine solution; and satisfactory bacteriological sample results; in compliance with this Part Section 349.070, shall be obtained prior to placing the components into service.

- 1) Certified Laboratory. All samples requiring laboratory analysis shall be analyzed only by a laboratory which has been certified for the analysis in question, except that turbidity analyses may be conducted by anyone approved by the Department. The certification shall be made by the Department or the Illinois Environmental Protection Agency in accordance with Certification and Operation of Environmental Laboratories (35 Ill. Adm. Code 63). The results from any analysis not conducted in accordance with the above shall not be considered valid for purposes of this Part.

4) The following rules and regulations shall apply to all non-community water supplies:

21. 35 Ill. Adm. Code 607, Operation and Recordkeeping.

22. 35 Ill. Adm. Code 611, Primary Drinking Water Standards.

(Source: Amended at 20 Ill. Reg. 9997 effective

JUL 2 1996)

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- 1) Heading of the Part: Hospice Programs
- 2) Code Citation: 77 Ill. Adm. Code 280
- 3) Section Numbers: Adopted Action:
280.101 Amendments
- 4) Statutory Authority: Hospice Program Licensing Act (210 ILCS 60)
- 5) Effective Date of Rules: July 15, 1996

6) Does this Rulemaking Contain an Automatic Repeal Date? No

7) Does this Rulemaking Contain Any Incorporations By Reference? No

8) Date Filed in Agency's Principal Office: July 15, 1996

9) Date Notice(s) of Proposal was Published in Illinois Register: January 5, 1996 - 20 Ill. Reg. 130

10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this Rule? No

11) Difference Between Proposal and Final Version: The following changes were made in response to comments received during the first notice of public comment period:

1. In line 8 delete "of Terms".
2. In line 32 delete "(5)".
3. In line 107 change "300.662" to "300.661".
4. In line 112 add after "PART": "(Section 3(1) of the Act)".
5. In line 120 insert ", " after "representative".
6. In line 118 add after "COMPENSATION": "(Section 3(1) of the Act)".

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

1. In line 97, strike "on the date these rules are effective" and add "as set forth in this Part".
2. In line 112, strike "THOSE ITEMS SPECIFIED IN SECTION 280.105 OF THIS PART" and add "those items specified in Section 280.105 of this Part".

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In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the statement letter issued by the Joint Committee?

The Department has made all the changes to which it agreed with the Joint Committee.

- 13) Will the Rules Replace an Emergency Rule Currently in Effect? No

- 14) Are there any other Amendments Pending on this Part No

- 15) **Summary and Purpose of Rules:** The rules in Part 280 establish requirements for the licensure of Hospice Programs in Illinois. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 99-197, effective July 21, 1995).

Section 280.101 is being amended to include reference to requirements for home health aides and visiting assistants under 105 ILCS 315.2 and 315.3. The amendments also amend the requirements for the licensing and requirements to implement the Health Care Worker Background Check Act and were adopted by emergency rulemaking effective January 1, 1996. Provisions are included for Uniform Conviction Information Act (UCIA) criminal records checks for direct care employees who are not licensed under any other law; employment prohibition for individuals who have been convicted of certain crimes; waiver provisions; and record-keeping requirements.

- 16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Ms. Gail DeVito
Division of Governmental Affairs
Department of Public Health
535 West Jefferson, 21st Floor
Springfield, Illinois 62761
217/782-6187

The full text of the Adopted Amendments/Rules begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER 11: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER 01: HOSPITAL AND AMBULATORY CARE FACILITIES

PART 280

HOSPICE PROGRAMS

SUBPART A: DEFINITIONS

Section
280.101 Definitions

SUBPART B: LICENSURE

Section
280.201 Programs Subject to Licensure
280.202 Licensure Procedures
280.203 License Not Transferable
280.204 License Fees
280.205 Inspections or Investigations
280.206 Information to be Reported to the Department
280.207 Research or Experimental Programs

SUBPART C: ADMINISTRATION

Section
280.301 Facilities Owned by Corporations
280.302 Sole Proprietor Partnerships
280.303 Administrator

SUBPART D: POLICIES AND PROCEDURES

Section
280.401 General
280.402 Personnel Policies
280.403 Hospice Programs
280.404 Volunteer Services
280.405 Patient Rights Plan
280.406 Patient Rights
280.407 Clinical Records

SUBPART E: PHYSICIAN SERVICES/MEDICAL DIRECTION

Section
280.501 Physician Services
280.502 Medical Director
280.503 Medical Advisor

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- para. 10-1, 10-2, 10-5, and 10-7".
10. In line 672 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 384, para. 10-3, 10-3.1, and 10-1)".
11. In line 676 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 384, para. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, and 12-4.7)".
12. In line 678 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 384, para. 12-19, 12-24, 12-25, and 12-31)".
13. In line 680 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 384, par. 12-19)".
14. In line 682 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 384, par. 12-21)".
15. In line 685 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 384, para. 16-1, 16-1.3, 16A-3, 18-1, 19-2, 19-1 and 19-3)".
16. In line 687 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 384, par. 19-1)".
17. In line 689 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 384, para. 20-1 and 20-1.1)".
18. In line 691 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 384, para. 24-1 and 24-1.1)".
19. In line 694 after "and 91" add "(formerly Ill. Rev. Stat. 1991, ch. 56 1/2, para. 705.1 and 709)".
20. In line 698 after "and 407.1" add "(formerly Ill. Rev. Stat. 1991, ch. 56 1/2, para. 431, 431.1, 434, 435, 435.1, 437, and 437.1)".
21. In line 704 and 705 delete "(1) and" and insert "and (1)" after "(1)".
22. In line 722 change "resident" to "patient".
23. In line 724 change "1995" to "1996".
24. In line 726 delete "(1)" and insert "(m)".
25. In line 730 after "Act" add:
"If the applicant is on the Department's Nurse Aide Registry in good standing and has had a DCIA criminal history record check within the

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- last 12 months, the employer need not initiate another check.
26. In line 733 insert "1" after "1996".
27. In line 735 change "(1)" to "(m)".
28. After line 737 add the following:
"f) The hospital may accept an authentic DCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) of (e) of this section."
29. In line 738 delete "(f)" and insert "(1)".
30. In line 742 before "DCIA" add "non-fingerprint-based".
31. In line 748 delete "(1)" and insert "(1)".
32. In line 750 before "Criminal" add "non-fingerprint-based".
33. In line 756 delete "(1)" and insert "(1)".
34. In line 757 and 758 delete "(1) and" and insert "and (1)" after "(1)".
35. In line 760 before "Criminal" add "non-fingerprint-based".
36. In line 764 delete "(b)" and insert "(1)".
37. In line 766 delete "(1) and" and insert "and (1)" after "(1)".
38. In line 772 delete "(b)" and insert "(1)".
39. In line 773 delete "(1) and" and insert "and (1)" after "(1)".
40. In line 775 delete "(1)" and insert "(1)".
41. In line 779 delete "(1)" and insert "(1)".
42. In line 779 insert "non-fingerprint-based" before "DCIA".
43. In line 786 delete "(1)" and insert "(1)".
44. In line 789 delete "INFORMATION NECESSARY TO INITIATE A" and insert "A completed".
45. In line 790 delete "IN A FORM AND MANNER PRESCRIBED BY THE" and insert "form".

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46. In line 791 delete "DEPARTMENT OF STATE POLICE".
47. In line 792 insert "which the Department will forward to the Illinois State Police" before "I and".
48. In line 793 delete "or" and insert "I" after "check"; add "or hospital check" after "State".
49. In line 796 delete "I" and insert "I".
50. In line 805 delete "I AND".
51. In line 805 add "I NURSE AIDE REGISTRY RECORDS AND".
52. In line 806 delete "I" and add "I".
53. In line 811 delete "I" and add "I".
54. In line 815 delete "I" and add "I".
55. After line 822 add:
 D The Hospital shall send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry.
56. In line 823 delete "I" and add "I".
57. In line 925 after "aides" add "who are on the Department's Nurse Aide Registry".

58. After line 828 add:

D The Hospital shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

59. Each time they appear, lowercase Criminal History Record Check, "Criminal Records Report", and "Criminal History Record".

60. Section 250.120 was removed from the rulemaking.

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

1. In line 336, add "(2)" after "3".
2. In line 391, strike "The" and add "the".

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3. In line 480, add "(C)" after "3".
 4. In line 501, add "(a)" after "6.17".
 5. In line 510, add "(b)" after "6.17".
 6. In line 514, add "(C)" after "6.17".
 7. In line 527, after "5" add "(9-1, 9-1.3, 9-2, 9-2.1, 9-3.1, 9-3.2 and 9-3.3)".
 8. In line 529, add a semicolon at the end.
 9. In line 605, add "(c)" after "Section 30".
 10. In line 615, and "(d)" after "Section 30".
 11. In line 657, add "(e) and (f)" after "Section 30".
 12. In line 660, add "(g)" after "Section 30".
 13. In line 674, add "(a)" after "Section 40".
 14. In line 696, add "(b)" after "Section 40".
 15. In line 709, italicize "The" and "shall send a copy of the results of the UCIA".
 16. In line 710, italicize "record check to the State Nurse Aide Registry".
 17. In line 711, after "Registry," add "Section 30(b) of the Health Care Worker Background Check Act. The Hospital shall include the individual's Social Security number in the criminal history record check results.
- In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.
- 12) Have all the changes raised from by the Agency and JCAR been made as indicated in the assessment letter issued by JCAR? The Department has made all changes to which it agreed with the Joint Committee.
 - 13) Will this rulemaking replace an emergency rule currently in effect? No
 - 14) Are there any amendments pending on this Part? No

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15) Summary and Purpose of Rulemaking: The rules in Part 250 establish requirements for the licensure of hospital in Illinois. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 99-197, effective July 24, 1995).

Section 250.150 is being added to add definitions of "federally designated organ procurement agency" and "tissue bank" in accordance with P.A. 89-191, effective August 20, 1995, which requires each licensed hospital to have an agreement with its federally designated organ procurement agency providing for notification of the organ procurement agency when potential organ donors become available, as required in Section 2 of the Organ Donor Request Act. Citations are also updated.

Section 250.200 is being added in response to P.A. 99-193. The rule sets forth purposes for which a hospital shall provide access to medical records of deceased patients to the federally designated organ procurement agency. The rule also sets forth the requirements for the organ procurement agency to obtain the records. The rule also sets forth the confidentiality provision is included, as well as a statement that any person who in good faith acts in accordance with the term of the Act and the rules shall not be subject to any type of civil or criminal liability or discipline for unprofessional conduct for those actions.

Section 250.135 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), hospital are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Subsection (c) sets forth the requirements for the hospital to conduct a "direct care" and "supportive care" criminal history record check and "direct care" and "supportive care" criminal history record check. Subsection (d) requires hospitals to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the hospital makes a conditional offer of employment to an applicant for a position with duties that involve direct care for patients. Hospitals are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (e). A new subsection (f) added at second notice allows a hospital to accept a UCIA background check conducted within the last 12 months. Notification requirements to the applicant or employee are set forth in subsection (g). Subsection (h) contains a provision for maintaining criminal history record checks in accordance with the fingerprint-based records checks for individuals whose fingerprints are not available. Subsection (i) contains a provision for the hospital to check, initiate a conviction, under subsection (i), an applicant, employee, or employee may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the

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Department may grant a waiver are listed in subsection (k). Hospitals are not obligated to employ applicants who are granted waivers (subsection (l)). The rule also sets forth the requirements for the hospital to conduct a "direct care" and "supportive care" criminal history record check and "direct care" and "supportive care" criminal history record check. Subsection (d) requires hospitals to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (e). A new subsection (f) added at second notice allows a hospital to accept a UCIA background check conducted within the last 12 months. Notification requirements to the applicant or employee are set forth in subsection (g). Subsection (h) contains a provision for maintaining criminal history record checks in accordance with the fingerprint-based records checks for individuals whose fingerprints are not available. Subsection (i) contains a provision for the hospital to check, initiate a conviction, under subsection (i), an applicant, employee, or employee may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Gail Davito
Division of Governmental Affairs
535 West Jefferson, Fifth Floor,
Springfield, IL 62761,
(217) 792-6197

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
 CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
 SUBCHAPTER 6: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 250

HOSPITAL LICENSING REQUIREMENTS

SUBPART A: GENERAL

Section	
250.110	Application for and Issuance of Permit to Establish a Hospital
250.120	Application for and Issuance of a License to Operate a Hospital
250.130	Administration by the Department
250.140	Hearings
250.150	Definitions
250.160	Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION AND PLANNING

Section	
250.210	The Governing Board
250.220	Accounting
250.230	Planning
250.240	Admission and Discharge
250.250	Visiting Rules
250.260	Patient's Rights
250.265	Emergency and Ambulance Services
250.270	Mandatory Procedures
250.280	Agreement with Designated Organ Procurement Agencies

SUBPART C: THE MEDICAL STAFF

Section	
250.310	Organization
250.315	House Staff Members
250.320	Admission and Supervision of Patients
250.330	Orders for Medications and Treatments
250.340	Availability for Emergencies

SUBPART D: PERSONNEL SERVICE

Section	
250.410	Organization
250.420	Personnel Records
250.430	Duty Assignments
250.435	Health Care Worker Background Check
250.440	Education Programs
250.450	Personnel Health Requirements

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Benefits

SUBPART E: LABORATORY

Section	
250.510	Laboratory Services
250.520	Blood and Blood Components
250.530	Designated Food and Drug Administration (Repealed)
250.540	Laboratory Personnel (Repealed)
250.550	Western Blot Assay Testing Procedures (Repealed)

SUBPART F: RADIOLOGICAL SERVICES

Section	
250.610	General Diagnostic Procedures and Treatments
250.620	Radioactive Isotopes
250.630	General Policies and Procedures Manual

SUBPART G: GENERAL HOSPITAL EMERGENCY SERVICE

Section	
250.710	Classification of Emergency Services
250.720	General Requirements for Emergency Services
250.730	Education and Training Planning
250.740	Disaster and Mass Casualty Program
250.750	Emergency Services for Sexual Assault Victims

SUBPART H: RESTORATIVE AND REHABILITATION SERVICES

Section	
250.810	Applicability of Other Parts of These Requirements
250.820	General
250.830	Classifications of Restorative and Rehabilitation Services
250.840	General Requirements for all Classifications
250.850	Specific Requirements for Comprehensive Physical Rehabilitation Services
250.860	Medical Direction
250.870	Medical Staff
250.880	Additional Allied Health Services

SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section	
250.910	Nursing Services
250.920	Organizational Plan
250.930	Role in hospital planning

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250.1340 Job descriptions
250.1350 Nursing committees
250.1360 Specialized nursing services
250.1370 Nursing Care Plans
250.1380 Nursing Records and Reports
250.1390 Unusual Incidents
250.1400 Meetings
250.1410 Education Programs
250.1420 Licensure
250.1430 Policies and Procedures
250.1440 Patient Care Unit
250.1450 Equipment for Bedside Care
250.1460 Drug Services on Patient Unit
250.1470 Care of Patients
250.1480 Admission Procedures Affecting Care
250.1490 Sterilization and Processing of Supplies
250.1500 Infection Control

SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

Section
250.1250 Surgery Staff
250.1260 Anesthesia
250.1270 Surgical Privileges
250.1280 Surgical Procedures
250.1290 Surgical Emergency Care
250.1300 Operating Room Register
250.1310 Surgical Patients
250.1320 Equipment
250.1330 Safety
250.1340 Operating Room
250.1350 Visitors in Operating Room
250.1360 Cleaning of Operating Room
250.1370 Regulations for Postoperative Recovery Facilities

SUBPART K: ANESTHESIA SERVICES

Section
250.1410 Anesthesia Service

SUBPART L: RECORDS AND REPORTS

Section
250.1510 Medical Records
250.1520 Reports

SUBPART M: FOOD SERVICE

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Section
250.1610 Dietary Department Administration
250.1620 Facilities
250.1630 Menus and Nutritional Adequacy
250.1640 Diet Orders
250.1650 Frequency of Meals
250.1660 Postoperative (Modified) Diets
250.1670 Food Preparation and Service
250.1680 Sanitation

SUBPART N: HOUSEKEEPING AND LAUNDRY SERVICES

Section
250.1710 Housekeeping
250.1720 Garbage, Refuse and Solid Waste Handling and Disposal
250.1730 Insect and Rodent Control
250.1740 Laundry Service
250.1750 Soiled Linen
250.1760 Clean Linen

SUBPART O: MATERNITY AND NEONATAL SERVICE

Section
250.1810 Applicability of other Parts of these regulations
250.1820 Maternity and Neonatal Service (Perinatal Service)
250.1830 General Requirements for all Maternity Departments
250.1840 Discharge of Newborn Infants from Hospital
250.1850 Rooming-in Care of Mother and Infant
250.1860 Special Programs
250.1870 Single Room Maternity Care

SUBPART P: ENGINEERING AND MAINTENANCE OF THE PHYSICAL PLANT, EQUIPMENT AND SYSTEMS HEATING, COOLING, ELECTRICAL, VENTILATION, PLUMBING, WATER, SEWER, AND SOLID WASTE DISPOSAL

Section
250.1910 Maintenance
250.1920 Emergency Electric Service
250.1930 Water Supply
250.1940 Ventilation, Heating, Air Conditioning, and Air Changing Systems
250.1950 Grounds and Buildings Shall be Maintained
250.1960 Sewage, Garbage, Solid Waste Handling and Disposal
250.1970 Plumbing
250.1980 Fire and Safety

SUBPART Q: CHRONIC DISEASE HOSPITALS

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Section
250.2010 Definition
250.2020 Requirements

SUBPART R: PHARMACY OR DRUG AND MEDICINE SERVICE

Section
250.2110 Service Requirements
250.2120 Personnel Required
250.2130 Facilities for Services
250.2140 Pharmacy and Therapeutics Committee

SUBPART S: PSYCHIATRIC SERVICES

Section
250.2210 Applicability of other Parts of these Regulations
250.2220 Establishment of a Psychiatric Service
250.2230 The Medical Staff
250.2240 Nursing Service
250.2250 Allied Health Personnel
250.2260 Admission and Personnel Development and Training
250.2270 Admissions and Discharge Procedures
250.2280 Care of Patients
250.2290 Special Medical Record Requirements for Psychiatric Hospitals and Psychiatric Units of General Hospitals
250.2300 Providing Psychiatric Care in General Hospitals
250.2310 Diagnostic, Treatment and Physical Facilities and Services

SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

Section
250.2410 Applicability of these Standards
250.2420 Submission of Plans for New Construction, Alterations or Additions to Existing Facility
250.2430 Preparation of Drawings and Specifications -- Submission Requirements
250.2440 General Hospital Standards
250.2450 General Hospital Standards
250.2460 General Hospital Standards
250.2470 Structural
250.2480 Mechanical
250.2490 Plumbing and Other Piping Systems
250.2500 Electrical Requirements

SUBPART U: CONSTRUCTION STANDARDS FOR EXISTING HOSPITALS

Section
250.2610 Applicability of these Standards

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250.2620 Codes and Standards
250.2630 Existing General Hospital Standards
250.2640 Details
250.2650 Finishes
250.2660 Mechanical
250.2670 Plumbing and Other Piping Systems
250.2680 Electrical Requirements

SUBPART V: SPECIAL CARE AND SPECIAL SERVICE UNITS

Section
250.2700 Special Care and/or Special Service Units
250.2710 Day Care for Wards for Children

SUBPART W: ALCOHOLISM AND INTOXICATION TREATMENT SERVICES

Section
250.2810 Applicability of other Parts of these Regulations
250.2820 Establishment of an Alcoholism and Intoxication Treatment Service
250.2830 Classification and Definitions of Service and Programs
250.2840 General Requirements for all Hospital Alcoholism Program Classifications
250.2850 The Medical and Professional Staff
250.2860 Medical Records
250.2870 Referral
250.2880 Client Legal and Human Rights

ILLUSTRATION A Seismic Zone Map
APPENDIX A Codes and Standards (Repealed)
APPENDIX B Codes (Repealed)
APPENDIX C Codes (Repealed)
EXHIBIT A Addresses of Sources (Repealed)
EXHIBIT B Addresses of Sources (Repealed)
EXHIBIT C Measurements Essential for Level I, II, III Hospitals
TABLE A Sound Transmission Limitations in General Hospitals
TABLE B Filter Efficiencies for Central Ventilation and Air Conditioning Systems in General Hospitals (Repealed)
TABLE C General Pressure Relationships and Ventilation of Certain Hospital Areas (Repealed)
TABLE D General Pressure Relationships and Ventilation of Certain Hospital Areas (Repealed)
TABLE E Piping Locations for Oxygen, Vacuum and Medical Compressed Air
TABLE F General Pressure Relationships and Ventilation of Certain Hospital Areas
TABLE G Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by the Hospital Licensing Act (210 ILCS 85).

SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of

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drugs and medicines are dispensed (including the repackaging for distribution to a nursing station or storage area) shall be considered to be a pharmacy and be licensed by the Department of Professional Regulation.

*PHRC - the National Association of Plumbing, Heating and Cooling Contractors.

*Physical Rehabilitation Facility - a licensed specialty hospital or clearly defined special unit or program of an acute care hospital providing physical rehabilitation services as defined above either through the facility's staff members or when appropriate, through the mechanism of formal affiliations and consultations.

*Physical Rehabilitation Services - a complete intensive multi-disciplinary process of individualized, time-limited, goal-oriented services, including evaluation, restoration, personal adjustment, and continuous medical care under the supervision and direction of a physician qualified by training and/or experience in physical rehabilitation. Physical rehabilitation is made up of two major components: inpatient and outpatient care. Both components involve the patient and whenever possible, the family, in establishing treatment goals and discharge plans, and consists of the following scope of services available for inpatient care: physician, rehabilitation nursing, physical therapy, occupational therapy, speech, audiology, psychology and psychiatric services, as well as rehabilitation counseling, social services, recreational therapy, psychology, pastoral care, and vocational counseling. Basic scope of services for outpatient facilities should include at least a physician, physical therapy, occupational therapy, speech therapy, physical services, psychology and social service. The purpose of such multi-faceted services is to reduce the disability and dependency in activities of daily living while promoting optimal personal adjustment in such dimensions as psychological, social, economic, spiritual and vocational.

*Physician - a person currently licensed to practice medicine in Illinois and who is duly qualified to practice under the Illinois Medical Act of 1987 (225 ILCS 601) (1987-Rev-Stat-1987-ch-119-par-449a-1 et-seq.).

*Physician's Assistant - a person authorized to practice under the Physician Assistant Practice Act of 1987 (225 ILCS 95) (1987-Rev-Stat-1987-par-449a-1 et-seq.). A physician's assistant is only authorized to practice upon the patients of his or her supervising physician.

*Podiatrist - a person currently licensed to practice podiatry in

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attests under the Podiatric Medical Practice Act of 1987 (225 ILCS 1001) (1987-Rev-Stat-1987-ch-119-par-449a-1 et-seq.).

*Reference Materials - a sample in which the chemical composition and physical properties resemble the specimen to be analyzed on which sufficient analyses have been run to give a reasonably good approximation of the concentration of the constituent being assayed. The reference materials are tests routinely analyzed along with patient specimens in order to determine the precision and accuracy of the analytical process used.

*Registered Nurse - a person registered under the Nurse-Patient Care Act of 1987 (225 ILCS 601) (1987-Rev-Stat-1987-ch-119-par-449a-1 et-seq.).

*Standard Solution - a solution used for calibration in which the concentration is determined solely by dissolving a weighed amount of primary standard material in an appropriate amount of solvent.

*Tissue bank - any facility or program operating in Illinois that is certified by the American Association of Tissue Banks or the Tissue Bank Association of America and is approved by the State of Illinois for the purpose of distributing transplants, bones or other human tissue for the purpose of injecting, transfusing or transplanting any of them into the human body. "Tissue bank" does not include a licensed blood bank. For the purposes of this Act, "tissue" does not include organs. (Section 3(G) of the Act)

*UL - Underwriters' Laboratories, Inc.

(Source: Amended at 20 Ill. Reg. 10009, effective JUL 15 1996)

SUBPART 3: ADMINISTRATION AND PLANNING

Section 250.280 Agreement with Designated Organ Procurement Agencies

a) Each hospital shall have an agreement with its federally designated organ procurement agency providing for certification of the organ procurement agency when potential organ donors become available as required in Section 2 of the Organ Donation Request Act (255 ILCS 601) (Section 5.16 of the Act)

b) Each hospital shall provide its federally designated organ procurement agency and any tissue bank with which it has an agreement with access to the medical records of deceased patients for the following purposes:

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- 1) estimating the hospital's organ and tissue donation potential;
- 2) identifying the educational needs of the hospital with respect to organ and tissue donation; and
- 3) identifying the number of organ and tissue donations and referrals to potential organ and tissue donors. (Section 6.17(a) of the Act)
- 5) All hospital and patient information, interviews, reports, statements, memoranda, and other data obtained or created by a tissue bank or organ and tissue donation center shall be removed from medical records, removed in subsection (b) of Section 6.17, and shall be maintained confidential and used only for the purpose set forth in subsection (b) of this Section and shall not be admissible as evidence nor discoverable in an action of any kind of court or before a tribunal, board, agency, or person. Section 6.17(b) of the Act)
- d) Any person who, in good faith, acts in accordance with the terms of this Section shall not be subject to any type of civil or criminal liability or discipline for unprofessional conduct for those actions. (Section 6.17(c) of the Act)

(Source: Added at 20 Ill. Reg. **10009**, effective
— JUL 15 1996 —)

SUBPART D: PERSONNEL SERVICE

Section 350.135 Health Care Worker Background Check

- a) The hospital shall not knowingly hire any individual after January 1, 1996, in a position with duties involving direct care for patients if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act) 125 ILCS 46/25):
 - 1) Murder, homicide, manslaughter or concealment of a homicidal death. Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 (formerly ILCS 9-9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3) (formerly Ill. Rev. Stat. 1991, ch. 38, paras. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3.11)
 - 2) Kidnapping or child abduction. Sections 10-1, 10-2, 10-3 and 10-7 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, paras. 10-1, 10-2, 10-3, and 10-7.1)
 - 3) Rape, 10-2, 10-2.5, and 10-3.1)
 - 4) Sexual abuse of a child, 10-4, 10-4.1, 10-4.2, 10-4.3, 10-4.4, and 10-4.5 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, paras. 10-1, 10-2.1, and 10-3.1)
 - 5) Assault, battery or infliction of great bodily harm. (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.5, and 12-4.7 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, paras. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.5, and 12-4.7.1))

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- 5) Sexual assault or sexual abuse. Sections 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, paras. 12-13, 12-14, 12-15, and 12-16.1)
- 6) Abuse or gross neglect of a long-term care facility resident. (Section 12-19 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19.1))
- 7) Criminal neglect of an elderly or disabled person. (Section 12-21 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21.1))
- 8) Theft, financial exploitation of an elderly or disabled person, recovery or burglary. (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1, and 19-3 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, paras. 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3.1))
- 9) Criminal trespass. Section 13-1 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, par. 13-1.1)
- 10) Arson. (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, paras. 20-1 and 20-1.1))
- 11) Unlawful use of weapons or aggravated discharge of a firearm. (Sections 24-1 and 24-1.2 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, paras. 24-1 and 24-1.2.1))
- 12) Manufacture, delivery or trafficking of cannabis. (Sections 5, 5.1, and 9 of the Cannabis Control Act (720 ILCS 550/5, 5.1, and 9.1) (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, paras. 5, 5.1, 5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.1.5, 5.1.6, 5.1.7, 5.1.8, 5.1.9, 5.1.10, 5.1.11, 5.1.12, 5.1.13, 5.1.14, 5.1.15, 5.1.16, 5.1.17, and 5.1.18))
- 13) The hospital shall not knowingly employ or retain any individual after January 1, 1997 in a position with duties involving direct care for patients if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section unless the applicant, employee, or employer obtains a waiver pursuant to subsections (1) and (k) of this Section. (Section 25 of the Health Care Worker Background Check Act)
- c) For the purpose of this Section:
 - 1) "applicant" means an individual seeking employment with a hospital who has received a bona fide conditional offer of employment;
 - 2) "conditional offer of employment" means a bona fide offer of employment by a hospital to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1)-(13) of this Section;
 - 3) "Direct Care" means the provision of nursing or personal care.

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- 4) "Personal Care" means assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of a patient. (Section 15 of the Health Care Worker Background Check Act)
- d) Beginning January 1, 1996 when the hospital makes a conditional offer of employment to an applicant who is not exempt under subsection (m) of this section, the hospital must initiate a "Uniform Conviction Information Act" (UCIA) criminal history record check for that applicant. (Section 30(a) of the Health Care Worker Background Check Act)
- e) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check. No later than January 1, 1997 a hospital must initiate a UCIA criminal history record check for all employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check, and who are not exempt because of subsection (m) of this section. (Section 30(b) of the Health Care Worker Background Check Act)
- f) Section 30(c) of the Health Care Worker Background Check Act involves duties that involve direct care for patients. (Section 30(c) of the Health Care Worker Background Check Act)
- g) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint UCIA criminal history record search is made:
 - 1) That the hospital shall request a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
 - 2) That the applicant or employee has a right to obtain a copy of the criminal history record report, challenge the accuracy and reliability of the report, and request a waiver, in accordance with subsection (i) of this section.
 - 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(3) of this section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (i) of this section or the employee receives a waiver pursuant to subsections (j) and (k) of this section.
 - 4) That the applicant, if not hired conditionally, shall not be hired if a non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of

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- the criminal offenses enumerated in subsections (a)(1)-(3) of this section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this section or the employee receives a waiver pursuant to subsections (j) and (k) of this section.
- 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(3) of this section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this section or the employee receives a waiver pursuant to subsections (j) and (k) of this section.
- 6) A hospital and (f) of the Health Care Worker Background Check Act
- h) A hospital may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)
- i) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction of any of the criminal offenses enumerated in subsections (a)(1)-(3) of this section may request the hospital to commence a fingerprint-based UCIA criminal records check by submitting information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)
- j) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this section by submitting the following within 10 days after the receipt of the criminal records report:
 - 1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) which the department will forward to the Illinois State Police; and
 - 2) A certified check, money order or hospital check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- k) The department may grant a waiver based on mitigating circumstances, which may include:
 - 1) The age at which the crime was committed;
 - 2) The circumstances surrounding the crime;
 - 3) The length of time since the conviction;
 - 4) The applicant's or employee's criminal history since the conviction;
 - 5) The applicant's or employee's work history;
 - 6) The applicant's or employee's current employment references;
 - 7) The applicant's or employee's character references;
 - 8) Nurse Aide Registry records; and
 - 9) Such other factors as indicate the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a

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9. In line 65 after "1961" add "[formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-13, 12-14, 12-15, and 12-16]".
10. In line 67 after "1961" add "[formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-17]".
11. In line 69 after "1961" add "[formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-21]".
12. In line 72 after "1961" add "[formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-17, 16-18, 16-19, 18-1, 19-2, 19-1 and 19-3]".
13. In line 74 after "1961" add "[formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-1.1]".
14. In line 76 after "1961" add "[formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1]".
15. In line 78 after "1961" add "[formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2]".
16. In line 81 after "and 91" add "[formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, and 709]".
17. In line 85 after "and 107.11" add "[formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1]".
18. In lines 91 and 92 delete "(1)" and insert "and (x)" after "(1)".
19. In line 113 delete "(1)" and insert "(m)".
20. In line 117 after "act)" add:
If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCA criminal history record check within the last 12 months, the employer need not initiate another check.
21. In line 123, delete "Residents".
22. After line 124 add the following:
f) The agency may accept an authentic UCA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) or (e) of this Section.
23. In line 125 delete "f)" and insert "g)".

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24. In line 129 before "UCA" add "non-fingerprint-based".
25. In line 135 delete "(1)" and insert "(1)".
26. In line 137 before "Criminal" add "non-fingerprint-based".
27. In line 143 delete "(b)" and insert "(1)".
28. In lines 144 and 145 delete "(1)" and insert "and (x)" after "(1)".
29. In line 147 before "Criminal" add "non-fingerprint-based".
30. In line 151 delete "(b)" and insert "(1)".
31. In line 153 delete "(1)" and insert "and (k)" after "(1)".
32. In line 159 delete "(b)" and insert "(1)".
33. In line 160 delete "(1)" and insert "and (k)" after "(1)".
34. In line 162 delete "g)" and insert "h)".
35. In line 166 delete "h)" and insert "(1)".
36. In line 166 insert "non-fingerprint-based" before "UCA".
37. In line 171 delete "(1)" and insert "(1)".
38. In line 175 delete "INFORMATION NECESSARY TO INITIATE A" and insert "3 completed".
39. In line 179 delete "IN A FORM AND MANNER PRESCRIBED BY THE" and insert "form".
40. In line 180 delete "DEPARTMENT OF STATE POLICE".
41. In line 181 insert "[which the Department will forward to the Illinois State Police]" before "1. and".
42. In line 182 delete "or" and insert "1" after "check"; add "or agency check" after "306f".
43. In line 185 delete "(1)" and insert "(k)".
44. In line 194 delete "1. AND".
45. After line 194 add "g) NURSE AIDE REGISTRY RECORDS; AND".

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46. In line 195 delete "g)" and add "g)".

47. In line 200 delete "k)" and add "l)".

48. In line 203 delete "l)" and add "m)".

49. After line 210 add:

d) The agency shall send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. The agency shall include the individual's Social Security number on the criminal history record check results.

50. In line 211 delete "m)" and add "o)".

51. In line 213 after "aides" add "who are on the Department's Nurse Aide Registry".

52. After line 216 add:

e) The agency shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file of other secure location accessible to the Department.

53. Each time they appear, lowercase "Criminal History Record Check", "Criminal Records Report", and "Criminal History Record".

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

1. In line 56, after "5" add "(3-1, 3-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3)".

2. In lines 114 and 117, change "agency" to "agency".

3. In line 134, add "(c)" after "Section 30".

4. In line 143, change "(1)" to "(m)".

5. In line 144, add "(d)" after "Section 30".

6. In line 186, add "(e) and (f)" after "Section 30".

7. In line 189, add "(g)" after "Section 30".

8. In line 204, add "(a)" after "Section 30".

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9. In line 220, add a semicolon at the end.

10. In line 226, add "(b)" after "Section 40".

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? The Department has made all the changes to which it agreed with the Joint Committee.

13) Will the Rules Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Pair? No

15) Summary and Purpose of Rules: The rules in Part 215 establish requirements for the licensure of home health agencies in Illinois. The rules are being enacted to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 215.72 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), agencies are prohibited from knowingly employing or retaining an individual in a direct care position after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," "direct care," and "personal care," as they apply to this Section, are included in subsection (c). Subsection (d) requires agencies to initiate UCIA criminal history record checks, beginning January 1, 1996, when the agency makes a conditional offer of employment to an applicant for a position with duties that involve direct care for patients. These checks are to be initiated by January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (3). A new subsection (f) added at second notice allows an agency to accept a UCIA background check conducted within the last 12 months. Notification requirements to the applicant or employee are set forth in subsection (g). Subsection (h) contains a provision for conditional employment, and subsection (i) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (j), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the

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Department may grant a waiver are listed in subsection (k). Agencies are not obligated to employ applicants who are granted waivers (subsection (l)). Exemptions to this Section are in subsection (m). A new subsection (n) requires agencies to send a copy of the background check results to the individual, a requirement previously included in the Nurse Aide Registry for persons who are granted waivers. Subsection (p) requires agencies to set forth in subsections (c) and (p).

16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187

The full text of the Adopted Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER 12: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER 6: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 315

ILLINOIS HOME HEALTH AGENCY CODE

SUBPART A: GENERAL PROVISIONS

Section	Purpose
245.10	Definitions
245.20	Incorporated and Referenced Materials
245.25	

SUBPART B: OPERATIONAL REQUIREMENTS

Section	
245.30	Organization and Administration
245.40	Staffing and Staff Responsibilities
245.50	Services
245.60	Annual Financial Statement
245.60	Home Health Aide Training
245.70	Health Care Worker Background Check
245.72	

SUBPART C: LICENSURE PROCEDURES

Section	
245.80	Licensure Required
245.90	License Application
245.100	Prerequisites
245.110	Inspections and Investigations
245.120	Violations
245.130	Adverse Licensure Actions
245.140	Penalties and Fines
245.150	Hearings

AUTHORITY: Implementing and authorized by the Home Health Agency Licensing Act [210 ILCS 55].

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 39, p. 314, effective September, 1979, for a maximum of 150 days; amended at 4 Ill. Reg. 18, p. 159, effective October 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 18, p. 129, effective April 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 10, p. 96, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 585, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 1006, effective August 30, 1982; amended at 7 Ill. Reg. 1365, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14 Ill.

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Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2114, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 488, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3273, effective February 15, 1996; amended at 20 Ill. Reg. **10038** effective **JUL 15 1996**.

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.72 Health Care Worker Background Check

a) The agency shall not knowingly hire any individual after January 1, 1996, in a position with duties involving direct care for patients if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act 235 ICS 46.2511):

- 1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 (720 ICS 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3) (formerly Ill. Rev. Stat. 1994, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3))
- 2) Kidnapping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1994, ch. 38, pars. 10-1, 10-2, 10-5 and 10-7))
- 3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1994, ch. 38, pars. 10-3, 10-3.1, and 10-4))
- 4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1994, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.3, 12-4.6, and 12-4.7))
- 5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1994, ch. 38, pars. 12-13, 12-14, 12-15, and 12-16))
- 6) Abuse or cross subject of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1994, ch. 38, par. 12-19))
- 7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1994, ch. 38, par. 12-21))
- 8) Theft, financial exploitation of an elderly or disabled person, larceny or burglary (Sections 16-1, 16-1.1, 16A-3, 18-1, 18-2, 19-1, and 19-3 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1994, ch. 38, pars. 16-1, 16-1.1, 16A-3, 18-1, 18-2, 19-1 and 19-3))
- 9) Criminal trespass (Section 19-4 of the Criminal Code of 1961

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- 10) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1994, ch. 38, pars. 20-1 and 20-1.1))
- 11) Unlawful use of weapons or aggravated discharge of a firearm (Sections 21-1 and 21-1.2 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1994, ch. 38, pars. 21-1 and 21-1.2))
- 12) Manufacture, delivery or trafficking of cannabis (Sections 5-1, 5-1.1, and 5-1.2 of the Cannabis Control Act 110 ICS 5-1, 5-1.1, and 5-1.2) (formerly Ill. Rev. Stat. 1994, ch. 56 ICS 5-1, 5-1.1, 5-1.2, 5-1.3, 5-1.4, and 5-1.5)
- 13) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act 720 ICS 401, 401.1, 404, 405, 405.1, 407 and 407.1) (formerly Ill. Rev. Stat. 1994, ch. 56 ICS 401, 401.1, 404, 405, 405.1, 407, and 407.1.1)
- 14) The agency shall not knowingly employ or retain an individual after January 1, 1997, in a position with duties involving direct care for patients if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections 1a(1)-(13) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (1) and (k) of this Section. (Section 25 of the Health Care Worker Background Check Act)

- a) For the purpose of this Section:
 - 1) "Applicant" means an individual seeking employment with an agency
 - 2) "Employer" means any person or entity that employs or seeks to employ an individual, offer employment, or has a bona fide offer of employment by an agency to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections 1a(1)-(13) of this Section.
 - 3) "Direct care" means the provision of nursing or personal care.
 - 4) "Personal care" means assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of a patient.
- b) Section 13 of the Health Care Worker Background Check Act
- c) Beginning January 1, 1996, when the agency makes a conditional offer of employment to an applicant who is not exempt under this Section or a position that is not exempt under this Section, the agency shall obtain a report from the Department of State Police for that applicant, which shall contain information on the applicant's criminal history record check for that applicant. (Section 30(C) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a CCRF criminal history record check within the last 12 months, the employer need not initiate another check.
- d) No later than January 1, 1997, an agency must initiate a CCRF criminal history record check for all employees who were hired before January

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1. 1986, who have not already had a UCIA criminal history record check, and who are not exempt because of subsection (b) of this Section with duties that involve direct care for patients. (Section 10(d) of the Health Care Worker Background Check Act)
2. The agency may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months, rather than requiring a check as required in subsection (d) or (e) of this Section.
3. The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-finger print UCIA criminal history record search is made:

- 1) That the agency shall request a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
- 2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (a) of this Section.
- 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (1) of this section or the employee receives a waiver pursuant to subsections (1) and (k) of this Section.
- 4) That the applicant, if not hired conditionally, shall not be hired until the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (1) of this section or the employee receives a waiver pursuant to subsections (1) and (k) of this Section.
- 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (1) of this section or the employee receives a waiver pursuant to subsection (1) of this section or the employee receives a waiver pursuant to subsection (1) of this section or the employee receives a waiver pursuant to subsection (1) of this section.
- 6) An agency may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 10(j) of the Health Care Worker Background

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Check Act)

- 1) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one of the offenses listed in the illustrations in subsection (a) of this Section shall be required to submit a request to commence a fingerprint-based UCIA criminal records check by submitting information in a form and manner prescribed by the Department of State Police. (Section 15 of the Health Care Worker Background Check Act)
- 1) An applicant employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following to the Department within 30 days after the receipt of the criminal records report:
 - 1) A completed fingerprint-based UCIA criminal records check form (Section 10(a) of the Health Care Worker Background Check Act) which the Department will forward to the Illinois State Police;
 - 2) A certified check, money order or agency check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- 1) The Department may grant a waiver based on mitigating circumstances, which may include:
 - 1) The time at which the crime was committed;
 - 2) The circumstances surrounding the crime;
 - 3) The length of time since the conviction;
 - 4) The applicant's or employee's criminal history since the conviction;
 - 5) The applicant's or employee's work history;
 - 6) The applicant's or employee's current employment references;
 - 7) The applicant's or employee's character references;
 - 8) Negative background records; and
 - 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of patients. (Section 10(b) of the Health Care Worker Background Check Act)
- 1) An agency is not obligated to employ or offer permanent employment to an applicant or retain an employee who is granted a waiver. (Section 10(d) of the Health Care Worker Background Check Act)
- 1) This Section shall not apply to:
 - 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law;
 - 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law or this Act. (Section 10 of the Health Care Worker Background Check Act)
- 1) The agency must send a copy of the results of the UCIA criminal

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history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 301B) of the Health Care Worker Background Check Act). The agency shall include the individual's Social Security number on the criminal history record check results.

- 9) The agency shall retain on file for a period of 5 years records of criminal records background check for all employees other than nurse aides subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 30 of the Health Care Worker Background Check Act)

- 2) The agency shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Added at 20 Ill. Reg. **10033**, effective **JUL 15 1996**)

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- 1) Heading of the Part: Illinois Veterans' Homes Code
- 2) Code Citation: 77 Ill. Adm. Code 310
- 3) Section Numbers:
 - 340.1375 Amendments
 - 340.1376 New Section
 - 340.1377 New Section
- 4) Statutory Authority: Nursing Home Care Act (210 ILCS 45)
- 5) Effective Date of Rules: July 15, 1996
- 6) Does this Rulemaking Contain an Automatic Repeal Date? No
- 7) Does this Rulemaking Contain Any Incorporations By Reference? Yes
- 8) Date Filed in Agency's Principal Office: July 15, 1996
- 9) Date Notice(s) of Proposal was Published in Illinois Register: January 5, 1996 - 20 Ill. Reg. 217
- 10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this/these Rules? No
- 11) Difference Between Proposal and Final Version: The following changes were made in response to comments received during the first notice of public comment period:
 1. In line 116 add ", for a maximum of 150 days" after "1996".
 2. In line 154 strike out the comma after "bids".
 3. In line 234 strike out "assistant" and add "assistants".
 4. In line 274 strike out "the" and insert "the".
 5. In line 274 strike out "to the Department" and insert "TO THE DEPARTMENT".
 6. In lines 275-276, strike out "NURSING ASSISTANT EMPLOYED BY THE FACILITY" and insert "Nursing Assistant employed by the facility".
 7. In line 283 delete "the" and insert "rule".
 8. In line 284 strike out "Individual" and insert "individual".

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9. In line 289 change "section" to "sections".
10. In line 304 add "g" after "when".
11. In line 314 strike out "resident" and add "residents".
12. In line 320 strike out "nurses" and add "nurse".
13. In line 365 after "720 ILCS 51" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3)".
14. In line 387 after "361" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 10-1, 10-2, 10-5, and 10-7)".
15. In line 399 after "361" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 10-1, 10-3.1, and 10-4)".
16. In line 393 after "361" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 2-1, 10-3, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.5, and 12-4.7)".
17. In line 394 after "361" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 12-13, 12-14, 12-15, and 12-16)".
18. In line 396 after "361" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 12-19)".
19. In line 398 after "361" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 12-21)".
20. In line 401 after "361" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 10-1, 10-1.3, 10-3, 18-1, 18-4, 19-1, and 19-3)".
21. In line 403 after "361" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 19-4)".
22. In line 405 after "361" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 20-1 and 20-1.1)".
23. In line 407 after "361" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 21-1 and 21-1.1)".
24. In line 410 after "and 91" add "(formerly Ill. Rev. Stat. 1991, Ch. 56, 12-4, pars. 35, 35.1, and 39)".
25. In line 414 change the second "407" to "407.1".
26. In line 414 after "and 407.1" add "(formerly Ill. Rev. Stat. 1991,

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- Ch. 56 1-2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)".
27. In lines 420 and 421 delete "(i) and" and insert "and (k)" after "(j)".
28. In line 431 change "background" to "Background".
29. In line 438 delete "(l)" and insert "(m)".
30. In line 443, change "year" to "12 months".
31. In line 450 delete "(l)" and add "(m)".
32. After line 452 add the following:

f) The facility may accept an authentic TCTA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) or (e) of this Section.
33. In line 453 delete "(f)" and insert "(g)".
34. In line 457 before "TCTA" add "non-fingerprint-based".
35. In line 463 delete "(l)" and insert "(j)".
36. In line 465 before "Criminal" add "non-fingerprint-based".
37. In line 471 delete "(h)" and insert "(i)".
38. In lines 472 and 473 delete "(l) and" and insert "and (k)" after "(j)".
39. In line 475 before "Criminal" add "non-fingerprint-based".
40. In line 479 delete "(h)" and insert "(i)".
41. In line 481 delete "(l) and" and insert "and (k)" after "(j)".
42. In line 487 delete "(h)" and insert "(i)".
43. In line 488 delete "(l) and" and insert "and (k)" after "(j)".
44. In line 499 insert "Care" after "Health".
45. In line 490 delete "(j)" and insert "(h)".

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46. In line 491 delete "b)" and insert "i)".
47. In line 494 insert "non-fingerprint-based" before "UCIA".
48. In line 501 delete "i)" and insert "j)".
49. In line 505 delete "INFORMATION NECESSARY TO INITIATE A" and insert "A COMPLETED".
50. In line 506 delete "IN A FORM AND MANNER PRESCRIBED BY THE" and insert "form".
51. In line 507 delete "DEPARTMENT OF STATE POLICE".
52. In line 508 insert "in which the Department will forward to the Illinois State Police" before "i, and".
53. In line 509 delete "or" and insert "i" after "check"; add "or facility check" after "order".
54. In line 512 delete "j)" and insert "k)".
55. In line 521 delete "i AND".
56. After line 521 add "8) NURSE AIDE REGISTRY RECORDS; AND".
57. In line 522 delete "8)" and add "9)".
58. In line 527 delete "k)" and add "l)".
59. In line 531 delete "i)" and add "m)".
60. In line 539 delete "m)" and add "n)".
61. In line 541 insert "Health Care Worker Background Check Act" after "line".
62. In line 541 after "Act" insert: "The facility shall include the individual's social security number on the criminal history record check results."
63. In line 542 delete "m)" and add "o)".
64. In line 544 after "aides" add "who are on the Department's Nurse Aide Registry".
65. After line 547 add:

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- 6) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file of other secure location accessible to the Department.
66. Each time they appear, lowercase "Criminal History Record Check", "Criminal Records Report", and "Criminal History Record".
- The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:
- In line 386, after "s" add "9-1, 9-1.2, 9-2, 9-2.1, 9-3, 3-3.1, 9-3.2 and 9-3.3".
 - In line 459, capitalize "nurse aide registry".
 - In line 463, add "(c)" after "Section 30".
 - In line 470, add "(d)" after "Section 30".
 - In line 512, add "(e) and (f)" after "Section 30".
 - In line 515, add "(g)" after "Section 30".
 - In line 530, add "(a)" after "Section 30".
 - In line 516, add a semicolon at the end.
 - In line 552, add "(b)" after "Section 40".
 - In line 567, delete "Act".
- In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.
- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the Assessment letter issued by the Joint Committee? The Department has made all the changes to which it agreed with the Joint Committee.
- 13) Will the Rules Replace an Emergency Rule Currently in Effect? No
- 14) Are there any other Amendments Pending on this Part? Yes
- | Section Numbers | Proposed Action | Ill. Reg. Citation |
|-----------------|-----------------|--------------------|
| 340-1000 | Amendments | 19 Ill. Reg. 14541 |

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340.1380 Amendments 19 Ill. Reg. 14541

- 15) **Summary and Purpose of Rules:** The rules in Part 340 establish requirements for the licensure of Illinois veterans' homes. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 340.1375 is amended to include new requirements for nursing assistants under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out whether an individual has a current background check. Provisions concerning placement of a nursing assistant on the registry are deleted, since a new Section 340.1376 is being added to specify and clarify registry requirements.

Section 340.1376 is added to set forth requirements for registry of certified nurse aides, which are expanded under P.A. 89-197.

Section 340.1377 is being added to implement the Health Care Worker Background Check Act. The new subsection (b) requires that the facility maintain a list of all individuals who are hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate Uniform Crime Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care. Facilities are also required to request a UCIA criminal history record later that January. Facilities must maintain a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (m). A new subsection (f) added at second notice allows a facility to accept a UCIA background check conducted within the last 12 months. Notification requirements to the applicant or employee are set forth in subsection (g). Subsection (h) contains a provision for conditional employment, and subsection (i) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (j), an applicant, employee, or employer may request a waiver to the employment prohibitions under subsections (a) and (b), in any of the following circumstances under subsection (k): (1) the individual is a nursing assistant; (2) the facility Department has a written policy of not hiring individuals with criminal records; (3) the individual is a nursing assistant; (4) the facility is not obligated to employ applicants who are granted waivers (subsection (l)). Subsection (n) requires facilities to send a copy of the results of the background check to the State Nurse Aide Registry. Requirements for

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retention of records are set forth in subsections (o) and (p).

- 16) **Information and Questions regarding this Adopted Rulemaking shall be directed to:**

Ms. Gail Devito
Division of Occupational
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187

The full text of the Adopted Amendments begins on the next page.

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TITLE 71: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 340

ILLINOIS VETERANS' HOMES CODE

SUBPART A: GENERAL PROVISIONS

Section	
340.1000	Definitions
340.1010	Incorporated and Referenced Materials
340.1010	General Requirements
340.1115	Federal Veterans' Regulations
340.1120	Application for License
340.1130	Criteria for Adverse Licensure Actions
340.1140	Denial of Initial License
340.1150	Revocations for Denial or Renewal of License
340.1160	Preparation of Records, Findings, and Consultations
340.1170	Overseas Disclosure
340.1190	Monitoring and Receivability
340.1200	Determination of a Violation
340.1210	Determination of the Level of a Violation
340.1220	Plans of Correction and Reports of Correction
340.1230	Calculation of Penalties
340.1240	Conditions for Assessment of Penalties
340.1250	Reduction or Waiver of Penalties
340.1260	Waivers

SUBPART B: POLICIES AND FACILITY RECORDS

Section	
340.1300	Facility Policies
340.1310	Admission and Discharge Policies
340.1320	Disaster Preparedness
340.1330	Serious Incidents and Accidents
340.1335	Infection Control
340.1340	Facility Record Requirements
340.1350	Personnel Policies
340.1360	Initial Health Evaluation for Employees
340.1370	Administrator
340.1375	Personnel Requirements
340.1376	Registry of Certified Nurse Aides
340.1377	Health Care Worker Background Check

SUBPART C: RESIDENT RIGHTS

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Implementation of Resident Rights and Facility Responsibilities
General Relationship Between Resident and Facility
Residents' Advisory Council
Abuse and Neglect
Communication and Visitation
Resident's Funds
Transfer of Discharge
Complaint Procedures
Private Right of Action

SUBPART D: HEALTH SERVICES

Section	
340.1500	Medical Care Policies
340.1505	Medical, Nursing and Restorative Services
340.1510	Communicable Disease Policies
340.1520	Tuberculin Skin Test Procedures
340.1530	Physician Services
340.1535	Physician Staffing
340.1540	Life-Sustaining Treatments
340.1550	Obstetrical and Gynecological Care
340.1560	Nursing Personnel
340.1570	Personal Care
340.1580	Restraints
340.1590	Non-emergency Use of Physical Restraints
340.1600	Emergency Use of Physical Restraints
340.1610	Unnecessary, Psychotropic, and Antipsychotic Drugs
340.1620	Medication Administration
340.1630	Self-Administration of Medication

SUBPART E: MEDICATION ADMINISTRATION SERVICES

Section	
340.1640	Medication Policies and Procedures
340.1655	Conformance with Physician's Orders
340.1660	Administration of Medication
340.1665	Control of Medication
340.1670	Labeling and Storage of Medication

SUBPART F: RESIDENT LIVING SERVICES

Section	
340.1700	Recreational and Activity Programs
340.1710	Social Services
340.1720	Work Programs

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SUBPART G: RESIDENT RECORDS

Section	
340.1800	Resident Record Requirements
340.1810	Content of Medical Record
340.1820	Records Pertaining to Resident's Property
340.1830	Retention, Transfer, and Inspection of Records
340.1840	Confidentiality of Resident's Records

SUBPART H: FOOD SERVICE

Section	
340.1900	Food Service Staff
340.1910	Diet Orders
340.1920	Adaptation of Diet and Meal Pattern
340.1930	Therapeutic Diets
340.1940	Menu Planning
340.1950	Food Preparation and Service
340.1960	Kitchen Equipment, Utensils and Supplies

SUBPART I: PHYSICAL PLANT SERVICES,
FURNISHINGS, EQUIPMENT AND SUPPLIES

Section	
340.2000	Maintenance
340.2010	Water Supply, Sewage Disposal and Plumbing
340.2020	Housekeeping
340.2030	Laundry Services
340.2040	Furnishings
340.2050	Equipment and Supplies

TABLE A	Disaster Preparedness	Parameters-Relative	Humidity and
TABLE B	Temperature		
	Guidelines for the Use of Various Drugs		

AUTHORITY: Implementing and authorized by the Nursing Home Care Act (210 ILCS 45).

SOURCE: Emergency rule adopted at 19 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency expired November 18, 1994; adopted at 19 Ill. Reg. 5679, effective April 3, 1995; emergency amendment at 20 Ill. Reg. 1496, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10045

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SUBPART B: POLICES AND FACILITY RECORDS

Section 340.1375 Personnel Requirements

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SUBPART A: Supervision of Nursing Services

- 1) The facility shall have a director of nursing service (DONS) who shall be a registered nurse.
 - A) This person shall have knowledge and training in nursing service administration and restorative and rehabilitative nursing. This person shall also have some knowledge and training in the care of the type of residents for which the facility cares.
 - B) This person shall be a full-time employee who is on duty a minimum of 36 hours, four days per week.
 - C) The facility may, with prior approval from the Department of Public Health, designate a full-time position in the area of nursing administration to a full-time person. Such an arrangement will be granted approval only through written documentation that the facility was unable to obtain the full-time services of a qualified individual to fill this position. Such documentation shall include, but not be limited to: an advertisement that has appeared in a newspaper of general circulation in the area for at least three weeks; the names, addresses and phone numbers of all persons who applied for the position and the reasons why they were not acceptable or would not work full-time; and information about the numbers and availability of licensed nurses in the area. The facility shall appoint a full-time person to this position only if it is indicated that there were no qualified applicants who were willing to accept the job on a full-time basis, and the pool of nurses available in the area cannot be expected to produce, in the near future, a qualified person who is willing to work full-time.
 - D) In facilities of less than 50 beds, this person may also provide direct patient care, and this person's time may be included in meeting staff/resident ratio requirements.
- 2) Facilities of 100 or more beds shall have a licensed nurse designated as the assistant director of nursing service. This person shall perform the duties of the DONS when the DONS is on vacation or attends sick leave. The assistant may provide direct patient care and act as the DONS.
 - A) The assistant shall be a full-time employee who is on duty a minimum of 36 hours, four days per week. The assistant may be assigned to work hours any time of the day or night.
 - B) The assistant shall assist the DONS in carrying out the responsibilities of the DONS.
 - 3) The DONS shall oversee the nursing services of the facility. This person's duties shall include:
 - A) Assigning and directing the activities of nursing service personnel.
 - B) Assuring that resident care plans are developed and

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Maintained.

- C) Recommending to the administrator the number and levels of personnel to be recruited, selection and employment, participating in recruitment, selection and employment, recommending termination of employment when necessary, and budgeting for nursing services.
- D) Participating in planning and budgeting for nursing services including purchasing of necessary equipment and supplies.
- E) Developing and maintaining nursing service objectives, standards of nursing practice, written policies and procedures, and written job descriptions for each level of nursing personnel.
- F) Coordinating health services and nursing services with other resident care services such as medical, pharmaceutical, dietary activities, and any other restorative/rehabilitative services offered.
- G) Planning of inservice education, embracing orientation, skill training, and ongoing education for all personnel covering all aspects of resident care and programming. The education program shall include training and practice in various nursing techniques and procedures, including techniques through out-of-facility or in-facility training programs. This person may conduct these programs personally or see to it that they are carried out.
- H) Participating in the development and implementation of resident care policies and bringing resident care problems, requiring changes in policy, to the attention of the facility's policy development group.
- I) Participating in the screening of prospective residents and their placement in terms of services they need and nursing competencies available.

b) Nursing Personnel

- 1) There shall be a licensed or registered nurse on duty and designated as being in charge of nursing services on all shifts when neither the director of nursing services nor assistant director of nursing services is on duty. If registered nurses and licensed practical nurses are assigned to the same shift, this charge nurse shall be the registered nurse on the same shift.
- 2) There shall be at least one registered nurse on duty seven days per week for eight consecutive hours. There shall be at least one registered nurse or licensed practical nurse on duty on each floor housing residents.
- 3) The need for licensed nurses on each nursing unit in a nursing facility will be determined on an individual case basis, dependent upon the individual situation. The need for an additional registered or licensed practical nurse to serve as a "house supervisor" will be determined on an individual basis. If such additional staffing is required, the department will inform the facility in writing of the kind and amount of additional

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staff time required, and the reason why it is needed.

- 4) Nursing Assistants shall assure that each person employed by the facility is a nursing assistant complying with one of the following conditions no later than 45 days after the date of initial employment.
- Provide documentation of registration on the Department's Nurse Aide Registry.
 - Enroll in a Basic Nursing Assistant Training Program that has been approved by the Department under its rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395.1 and pass the Department-approved nursing assistant competency examination. The program administrator shall be successfully completed and the competency examination passed by the nursing assistant no later than 120 days after the date of initial employment, unless that training program is conducted by a community college or other educational institution on a semester, trimester, or trimester basis. However, nursing assistant may be employed no more than 120 days prior to the successful completion of the program.
 - Submit documentation in accordance with Section 340.13 of this Part in order to be registered in the Nurse Aide Registry. Provide documentation on another state of certification as a nursing assistant on or after January 1, 1989.
 - Provide documentation of successful completion of a nursing data course to an accepted nursing program as conducted by a department-approved or approved vocational school, or a school and successful completion of the department-approved nursing assistant competency examination by the facility shall assure that each person employed by the facility as nursing assistant shall meet each of the following requirements:
 - Be at least 16 years of age, of separate habits and good moral character, honest, reliable, and trustworthy. (Section 3-176(a)(1) of the Act)
 - Be able to speak and understand the English language or a language understood by a substantial percentage of the facility's residents. (Section 3-206(a)(2) of the Act)
 - Provide evidence of prior employment or occupation, if any, and residence for two years prior to initial present employment as a nursing assistant. (Section 3-206(a)(3) of the Act)

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military training program that includes the content of the Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395) and at least 10 hours of supervised clinical experience, as evidenced by a diploma, certification, or other written verification, and the written opinion of the Department-established nursing assistant competency test.

(Source: added at 20 Ill. Reg. **10045**, effective **JUL 15 1996**)

Section 340.1377 Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual after January 1, 1996 in a position with duties involving direct care for residents if that person has been convicted of commission or attempting to commit one or more of the following offenses: Section 25 of the Health Care Worker Background Check Act (225 ICS 16.75-11)
 - 1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 (220 ICS 5-9-1, 5-12, 9-2.1, 9-2.2, 9-2.3, 9-3.1, 9-3.2 and 9-3.3) formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 9-3.5, 9-3.6, 9-3.7, 9-3.8, 9-3.9, 9-3.10, 9-3.11, 9-3.12, 9-3.13, 9-3.14, 9-3.15, 9-3.16, 9-3.17, 9-3.18, 9-3.19, 9-3.20, 9-3.21, 9-3.22, 9-3.23, 9-3.24, 9-3.25, 9-3.26, 9-3.27, 9-3.28, 9-3.29, 9-3.30, 9-3.31, 9-3.32, 9-3.33, 9-3.34, 9-3.35, 9-3.36, 9-3.37, 9-3.38, 9-3.39, 9-3.40, 9-3.41, 9-3.42, 9-3.43, 9-3.44, 9-3.45, 9-3.46, 9-3.47, 9-3.48, 9-3.49, 9-3.50, 9-3.51, 9-3.52, 9-3.53, 9-3.54, 9-3.55, 9-3.56, 9-3.57, 9-3.58, 9-3.59, 9-3.60, 9-3.61, 9-3.62, 9-3.63, 9-3.64, 9-3.65, 9-3.66, 9-3.67, 9-3.68, 9-3.69, 9-3.70, 9-3.71, 9-3.72, 9-3.73, 9-3.74, 9-3.75, 9-3.76, 9-3.77, 9-3.78, 9-3.79, 9-3.80, 9-3.81, 9-3.82, 9-3.83, 9-3.84, 9-3.85, 9-3.86, 9-3.87, 9-3.88, 9-3.89, 9-3.90, 9-3.91, 9-3.92, 9-3.93, 9-3.94, 9-3.95, 9-3.96, 9-3.97, 9-3.98, 9-3.99, 9-4.00, 9-4.01, 9-4.02, 9-4.03, 9-4.04, 9-4.05, 9-4.06, 9-4.07, 9-4.08, 9-4.09, 9-4.10, 9-4.11, 9-4.12, 9-4.13, 9-4.14, 9-4.15, 9-4.16, 9-4.17, 9-4.18, 9-4.19, 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check, and "O are not exempt because of subsection (m) of this Section with nurses that involve direct care for residents. (Section 303) of the Health Care Worker Background Check Act.)

1) The facility may accept an authentic UCA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (3) of (e) of this Section.

2) The facility may accept a UCA criminal history record check that is made as required by the Department of State Police. The applicant for employment must be notified of the following: however, a non-fingerprinting UCA criminal history record search is made.

1) That the facility shall request a non-fingerprint-based UCA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant of employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (1) of this Section.

3) That the applicant if hired conditionally, may be terminated if the fingerprint-based criminal records report indicates that the applicant has been convicted of a crime that is a criminal offense enumerated in subsections (a)(1)-(13) of this Section, unless the applicant's identity is validated and it is determined that the applicant if employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (1) of this Section or the employee receives a waiver pursuant to subsections (1) and (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section, unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (1) of this Section or the employee receives a waiver pursuant to subsections (1) and (k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (1) of this Section or the employee receives a waiver pursuant to subsections (1) and (k) of this Section. (Section 303) and (1) of the Health Care Worker Background Check Act.)

6) A facility may conditionally employ an applicant to provide direct care for or supervise residents pending the results of a UCA criminal history record check. (Section 303) of the Health Care Worker Background Check Act.)

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1) An applicant of employee whose non-fingerprint-based UCA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section may request the facility to commence a fingerprint-based UCA criminal records check by submitting information in a form and manner prescribed by the Department of State Police. (Section 305 of the Health Care Worker Background Check Act.)

2) An applicant of employee may request a waiver to subsections (a)(1)-(13) of this Section by submitting the following to the Department of State Police within 30 days after the receipt of the criminal records report:

1) A completed fingerprint-based UCA criminal records check form (Section 304(a) of the Health Care Worker Background Check Act) which the Department will forward to the Illinois State Police; and

2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCA criminal records check.

3) The Department may grant a waiver based on mitigating circumstances which may include:

- 1) The age at which the crime was committed;
- 2) The length of time since the conviction;
- 3) The nature of the offense;
- 4) The applicant's or employee's criminal history since the conviction;

5) The applicant's or employee's work history;

6) The applicant's or employee's current employment references;

7) The applicant's or employee's character references;

8) Nurse Aide Registry records; and

9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act.)

10) A facility may conditionally employ an applicant to provide direct care for or supervise residents pending the results of a UCA criminal history record check. (Section 303) of the Health Care Worker Background Check Act.)

11) This section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law; or

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State. (Section 30 of the Health Care Worker Background Check Act.)

3) The facility must send a copy of the results of the UCA criminal history record check to the State Nurse Aide Registry for individuals who are on the Registry. (Section 30(b) of the Health

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- Care Worker Background Check Act). The facility shall include the individual's Social Security number on the criminal history record and the facility shall retain on file for a period of 5 years records of criminal records requests for all employees other than nurse aides who are on the Department's Nurse Aide Registry. The file shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act).
- d) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Added at 20 Ill. Reg. 10045, effective
JUL 15 1996)

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- 1) Heading of the Part: Intermediate Care for Developmentally Disabled Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 350
- 3) Section Numbers: Adopted Action:
350.680 Amendments:
New Section
350.681
New Section
350.683
- 4) Statutory Authority: Nursing Home Care Act (210 ICS 45)
- 5) Effective Date of Rules: July 15, 1996
- 6) Does this Rulemaking Contain an Automatic Repeal Date? No
- 7) Does this Rulemaking Contain Any Incorporations By Reference? No
- 8) Date Filed in Agency's Principal Office: July 15, 1996
- 9) Date Notices of Proposed was Published in Illinois Register: January 5, 1996 - 20 Ill. Reg. 110
- 10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this Rule? No
- 11) Difference Between Proposal and Final Version: The following changes were made in response to comments received during the first notice or public comment period:
1. In line 292, change "registry" to "Registry".
 2. In line 388 after "[220 ICS 5]" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3)".
 3. In line 390 after "1961" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 10-1, 10-2, 10-3, and 10-4)".
 4. In line 392 after "1961" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 10-1, 10-3.1, and 10-4)".
 5. In line 395 after "1961" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.5, and 12-4.7)".
 6. In line 397 after "1961" add "(formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 12-13, 12-14, 12-15, and 12-16)".

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7. In line 399 after "1961" add "formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19".
8. In line 401 after "1961" add "formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21".
9. In line 404 after "1961" add "formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3".
10. In line 406 after "1961" add "formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-11".
11. In line 418 after "1961" add "formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1".
12. In line 420 after "1961" add "formerly Ill. Rev. Stat. 1991, ch. 38, pars. 21-1 and 21-2.2".
13. In line 413 after "and 2." add "formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705.1, and 709".
14. In line 417 after "and 407.1" add "formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1403, 1405, 1405.1, 1407, and 1407.2".
15. In lines 423 and 424 delete "(1) and" and insert "and (k)" after "(1)".
16. In line 441 delete "(1)" and insert "(m)".
17. In line 453 delete "(1)" and insert "(m)".
18. After line 455 add the following:
 §1. The facility may accept an Authentic JCRA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) or (e) of this Section.
19. In line 456 delete "(1)" and insert "(1)".
20. In line 460 before "JCRA" add "non-fingerprint-based".
21. In line 466 delete "(1)" and insert "(1)".
22. In line 468 before "Criminal" add "non-fingerprint-based".
23. In line 474 delete "(b)" and insert "(1)".

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24. In lines 475 and 476 delete "(1) and" and insert "and (k)" after "(1)".
25. In line 478 before "Criminal" add "non-fingerprint-based".
26. In line 482 delete "(b)" and insert "(1)".
27. In line 484 delete "(1) and" and insert "and (k)" after "(1)".
28. In line 490 delete "(b)" and insert "(1)".
29. In line 491 delete "(1) and" and insert "and (k)" after "(1)".
30. In line 493 delete "(1)" and insert "(b)".
31. In line 497 delete "(b)" and insert "(1)".
32. In line 497 insert "non-fingerprint-based" before "JCRA".
33. In line 504 delete "(1)" and insert "(1)".
34. In line 507 delete "INFORMATION NECESSARY TO INITIATE A" and insert "A completed".
35. In line 508 delete "IN A FORM AND MANNER PRESCRIBED BY THE" and insert "FORM".
36. In line 510 insert "which the Department will forward to the Illinois State Police" before "and".
37. In line 511 delete "or" and insert "1" after "check"; add "OR agency check" after "order".
38. In line 514 delete "(1)" and insert "(k)".
39. In line 523 delete "1 AND".
40. After line 523 add "8. NURSE AIDE REGISTRY RECORDS; AND".
41. In line 524 delete "(1)" and add "(1)".
42. In line 529 delete "(k)" and add "(1)".
43. In line 533 delete "(1)" and add "(1)".
44. In line 541 delete "(m)" and add "(1)".
45. In line 543 insert after "the": "Health Care Worker Background Check".

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46. In line 543 insert after "Act)": "The facility shall include the individual's Social Security number on the criminal history record check results."

47. In line 544 delete "in" and add "of".

48. In line 546 after "aides" add "who are on the Department's Nurse Aide Registry".

49. After line 549 add:

DI The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file of other secure location accessible to the Department.

50. Each time they appear, lowercase "Criminal History Record Check", "Criminal Records Report", and "Criminal History Record".

51. In line 550 change "Amended" to "Added".

52. In line 578 change "Amended" to "Added".

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

1. In line 398, after "5" add "9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3".

2. In line 465, add "(C)" after "Section 30".

3. In line 472, add "(D)" after "Section 30".

4. In line 514, add "(e) and (f)" after "Section 30".

5. In line 517, add "(g)" after "Section 30".

6. In line 531, add "(h)" after "Section 30".

7. In line 547, add a semicolon at the end.

8. In line 553, add "(i)" after "Section 40".

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

12) Have all the changes signed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint

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Committee? The Department has made all the changes to which it agreed with the Joint Committee.

13) Will the Rules Replace an Emergency Rule Currently in Effect? No

14) Are there any Other Amendments Pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
350.320	Amendments	19 Ill. Reg. 14561
350.1080	New Section	19 Ill. Reg. 14561
350.1082	New Section	19 Ill. Reg. 14561
350.1084	New Section	19 Ill. Reg. 14561
350.1086	New Section	19 Ill. Reg. 14561
350.1220	Amendments	19 Ill. Reg. 14561
350.1420	Amendments	19 Ill. Reg. 14561
350.Appendix E	New Section	19 Ill. Reg. 14561

15) Summary and Purpose of Rules:

The rules in Part 350 establish requirements for the licensure of intermediate care facilities for the developmentally disabled. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-137, effective July 21, 1995).

Section 350.630 is amended to include new requirements for nursing assistants and developmental disability aides under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out whether the individual has a current background check. Provisions concerning placement of a DO aide on the Registry are deleted, since a new Section 350.683 is being added to specify and clarify Registry requirements.

Section 350.681 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit a crime that is a "prohibited offense" under the definitions of the term "prohibited offense" contained in the Act. Penalties of the term "prohibited offense" are included in the "direct care" as they apply to this Section. are included in subsection (d). Subsection (d) requires facilities to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record

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check for direct care employees who were hired before January 1, 1996, who have not already had a JCIA criminal history record check and who are not exempt under subsection (m). A new subsection (f) was added at second notice to allow a facility to accept a background check conducted within the last 12 months. Notification requirements to the applicant or employee are set forth in subsection (g). Subsection (h) contains a provision for conditional employment, and subsection (i) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (j), an applicant, employee, or employer may request a waiver to the employment prohibition in subsections (ia) and (ib) for individuals working in facilities that are regulated by the Department of Public Health. Subsection (k) requires facilities to employ applicants who are granted waivers (subsection (l)). Subsection (m) requires facilities to send a copy of the results of the background check and the individual's Social Security number to the State nurse aide registry. Requirements for retention of records are set forth in subsections (o) and (p).

Section 350.593 is added to set forth requirements for registry of developmental disabilities aides, which are expanded under P.A. 89-197.

16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Department of Public Health
505 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

The full text of the Adopted Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER 11: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section

350.110	General Requirements
350.110	Application for License
350.110	License of a Facility
350.110	License of an Initial License for a New Facility
350.130	Issuance of an Initial License Due to a Change of Ownership
350.130	Issuance of a Renewal License
350.150	Criteria for Adverse License Actions
350.170	Denial of Initial License
350.175	Denial of Renewal of License
350.180	Revocation of License
350.190	Experimental Program Conflicting with Requirements
350.200	Inspections, Surveys, Evaluations and Consultation
350.210	Filing an Annual Attested Financial Statement
350.220	Information to be Made Available to the Public by the Department
350.230	Information to be Made Available to the Public by the Licensee
350.250	Outpatient Disclosure
350.260	Issuance of Conditional Licenses
350.270	Monitor and Receivewship
350.271	Presentation of Findings
350.272	Determination to Issue a Notice of Violation or Administrative Warning
350.274	Determination of the Level of a Violation
350.276	Notice of Violation
350.277	Administrative Warning
350.278	Plans of Correction
350.280	Reports of Correction
350.282	Conditions for Assessment of Penalties
350.284	Assessment of Penalties
350.286	Determination to Assess Penalties
350.288	Reduction or Waiver of Penalties
350.290	Quarterly List of Violators
350.300	Alcoholism Treatment Programs in Long-Term Care Facilities
350.310	Department May Survey Facilities Formerly Licensed
350.320	Waivers
350.330	Definitions
350.340	Incorporated and Referenced Materials

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SUBPART B: ADMINISTRATION

Section
350.510 Administrator

SUBPART C: POLICIES

Section
350.510 Management Policies
350.520 Resident Care Policies
350.530 Admission and Discharge Policies
350.540 Contract Between Resident and Facility
350.550 Residents' Advisory Council
350.560 General Policies
350.570 Personnel Policies
350.575 Initial Health Evaluation for Employees
350.580 Developmental Disabilities Aides
350.590 Health Care Worker Background Check
350.595 Facility Self-Developmental Disabilities Aides
350.600 Student Interns
350.610 Disaster Preparedness
350.620 Serious Incidents and Accidents

SUBPART D: PERSONNEL

Section
350.610 Personnel
350.620 Consultation Services
350.630 Personnel Policies

SUBPART E: RESIDENT LIVING SERVICES

Section
350.640 Service Programs
350.650 Psychological Services
350.660 Speech, Vision, and Audiology Services
350.670 Speech Pathology and Activities Services
350.680 Recreation and Activities Services
350.690 Training and Rehabilitation Services
350.700 Training and Rehabilitation Staff

SUBPART F: HEALTH SERVICES

Section
350.710 Health Services
350.720 Physician Services
350.730 Querculin Skin Test Procedures
350.740 Nursing Services

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350.1235 Life-Sustaining Treatments
350.1240 Dental Services
350.1250 Physical and Occupational Therapy Services

SUBPART G: MEDICATIONS

Section
350.1410 Medication Policies and Procedures
350.1420 Conformance with Physician's Orders
350.1430 Administration of Medication
350.1440 Medication Storage
350.1450 Control of Narcotics and Legend Drugs

SUBPART H: RESIDENT AND FACILITY RECORDS

Section
350.1610 Resident Record Requirements
350.1620 Content of Medical Records
350.1630 Confidentiality of Resident's Records
350.1640 Records Pertaining to Residents' Property
350.1650 Retention and Transfer of Resident Records
350.1660 Other Resident Record Requirements
350.1670 Staff Responsibility for Medical Records
350.1680 Retention of Facility Records
350.1690 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
350.1810 Director of Food Services
350.1820 Dietary Staff in Addition to Director of Food Services
350.1830 Hygiene of Dietary Staff
350.1840 Diet Orders
350.1850 Adequacy of Diet and Meal Pattern
350.1860 Therapeutic Diets
350.1870 Scheduling Meals
350.1880 Menu Planning
350.1890 Food Preparation and Service
350.1900 Food Handling Sanitation
350.1910 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section
350.2010 Maintenance
350.2020 Housekeeping
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SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
350.2210
Furnishings
350.2220
Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section
350.2310
Codes
350.2320
Water Supply
350.2330
Sewage Disposal
350.2340
Plumbing

SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section
350.2410
Applicability of These Standards
350.2420
Codes and Standards
350.2430
Preparation of Drawings and Specifications
350.2440
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350.2450
Administration and Public Areas
350.2460
Nursing Unit
350.2470
Dining, Living, Activities Rooms
350.2480
Therapy and Personal Care
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Service Departments
350.2500
General Building Requirements
350.2510
Structural
350.2520
Mechanical Systems
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Plumbing Systems
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Electrical Systems

SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section
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Applicability
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Codes and Standards
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Preparation of Drawings and Specifications
350.2640
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350.2650
Administration and Public Areas
350.2660
Nursing Unit
350.2670
Living, Dining, Activities Rooms
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Therapy and Personal Care
350.2690
Service Departments
350.2700
General Building Requirements
350.2710
Structural

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SUBPART O: RESIDENT'S RIGHTS

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Mechanical Systems
350.3030
Plumbing Systems
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350.681 of this Part.)

b) Each of the facility's developmental disabilities aides shall comply with one of the following conditions no later than 45 days after the date of the Department's approval of the program:

- 1) Provide documentation of registration on the Department's Nurse Aide Registry.
- 2) Enroll in a 40-hour Department approved developmental disabilities aide training program (see 77 Ill. Adm. Code 395). The program coursework shall be successfully completed no later than 120 days after the date of initial employment. Programs approved in accordance with 77 Ill. Adm. Code 395.45(a)(2) may last longer than 120 days. However, a developmental disabilities aide training program may be employed no more than 120 days prior to the successful completion of the program coursework and the competency examinations.
- 3) Submit documentation in accordance with Section 350.683 of this Part, to the Department's Nurse Aide Registry.
- 4) Provide documentation of successful completion of a developmental disabilities aide training course approved by another state as evidenced by a diploma, certification or other written verification from the school the documentation was received from. The course is equivalent to or exceeds the requirements of the Department's rules governing long-term care assistant and aide training programs (77 Ill. Adm. Code 395).
- 5) Provide documentation of successful completion of the Mental Health Technician Training Program established by the Department of Health.

c) Each person employed by the facility as a developmental disabilities aide shall meet each of the following requirements:

- 1) Be at least 16 years of age, of legal age and good moral character, honest, reliable and trustworthy. (Section 3-206(a)(1) of the Act)
 - 2) Be able to speak and understand the English language or a language understood by a substantial percentage of the facility's residents. (Section 3-206(a)(2) of the Act)
 - 3) Provide evidence of prior employment or occupation, if any, and residence for two years prior to ~~enroll~~ initial employment as a nursing assistant. (Section 3-206(a)(3) of the Act)
 - 4) Be completed at least eight years of grade school, or provide evidence of completion of grade 10.
- d) The facility shall certify that each developmental disabilities aide developmentally disabled is developmentally disabled. Such certification shall be retained by the facility as part of the employee's personnel record. (Section 3-206(d) and (e) of the Act)
- e) During inspections of the facility, the Department may require

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developmental disabilities aides to demonstrate competency in the principles, techniques, and procedures covered by the developmental disabilities aide training program curriculum described in the rules governing training programs for developmental disabilities nursing assistants and aides (see 77 Ill. Adm. Code 395.310), when possible problems in the care provided by developmental disabilities aides or demonstrators of inadequate training are observed. Failure to demonstrate competency in the principles, techniques and procedures shall result in the provision of training to the individual by the facility. The in-service training addresses the developmental disabilities aide training principles and techniques relative to the procedures in which the developmental disabilities aides are found to be deficient during inspection (see 77 Ill. Adm. Code 395).

- e) A facility which conducts a recognized training program for developmental disabilities aides and comply with the applicable provisions of the Department's rules governing training programs for nursing assistants and aides (see 77 Ill. Adm. Code 395.300) shall not employ an individual as a nurse aide unless the facility complies with the Department's rules governing the regular certification of such individuals. (Section 3-206(a)(4) of the Act)
- f) A facility shall not employ a nurse aide who is not a resident of the State of Illinois. (Section 3-206(a)(5) of the Act)
- g) Individual employed in a training program in accordance with subsection (a)(2) of this Section--(Section 3-266(f) of the Act)

(Source: Amended at 20 Ill. Reg. 10065, effective JUL 15 1996)

Section 350.691. Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual after January 1, 1996, who has been convicted of a crime involving direct care for residents if that person has been convicted of one or more of the following offenses under the Health Care Worker Background Check Act (25 ILCS 16.0/1):
 - 1) Murder, homicide, manslaughter or concealment of a homicidal death. (Sections 9-1, 9-1.2, 9-2, 9-1.1, 9-3, 9-3.1, 9-3.2 and 9-3.3 of the Criminal Code of 1961 (20 ILCS 5-9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3))
 - 2) Kidnapping or child abduction. (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7))
 - 3) Use of a firearm or discharge of a firearm. (Sections 10-3, 10-3.1 and 10-4 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4))

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- 4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 (formerly 111. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7)).
- 5) Sexual assault or sexual abuse (Sections 12-11, 12-12, 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961 (formerly 111. Rev. Stat. 1991, ch. 38, pars. 12-11, 12-13, 12-14, 12-15, and 12-16)).
- 6) Abuse of gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 (formerly 111. Rev. Stat. 1991, ch. 38, par. 12-19)).
- 7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 (formerly 111. Rev. Stat. 1991, ch. 38, par. 12-21)).
- 8) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.1, 16-3, 16-3.1, 16-4, 16-4.2, and 16-5 of the Criminal Code of 1961 (formerly 111. Rev. Stat. 1991, ch. 38, pars. 16-1, 16-1.1, 16-3, 16-3.1, 16-4, 16-4.2, 16-5, and 16-5.1)).
- 9) Criminal trespass (Section 12-1, ch. 38, par. 12-1.1) (formerly 111. Rev. Stat. 1991, ch. 38, par. 12-1.1).
- 10) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 (formerly 111. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1)).
- 11) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.1 of the Criminal Code of 1961 (formerly 111. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.1)).
- 12) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1, and 9 of the Cannabis Control Act (720 ILCS 550/5, 5.1, and 9) (formerly 111. Rev. Stat. 1991, ch. 16 1/2, pars. 705, 705.1, and 709.1)) or
- 13) Manufacture, delivery or trafficking of controlled substances (Sections 40-1, 40-1.1, 40-4, 40-5, 40-5.1, 407-1, and 407-1.1 of the Illinois Controlled Substances Act (720 ILCS 570/40-1, 40-1.1, 40-4, 40-5, 405.1, 407 and 407-1) (formerly 111. Rev. Stat. 1991, ch. 36, pars. 40-1, 401-1, 404-1, 405, 405.1, 407, and 407-1)).
- 14) The facility shall not knowingly employ or retain an individual after January 1, 1997 in a position with duties involving direct care for residents if that person has been convicted of conviction or attempted to commit one or more of the offenses listed in subsections (a) through (s) of this section unless the applicant, employee or employer has provided evidence of a successful treatment of the offense (Section 25 of the Health Care Code of 1993, 625 ILCS 10/25-1). For the purpose of this section, "net Background Check Act"
- 1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.
- 2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent

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- 3) upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1)-(13) of this Section.
- 3) "direct care" means the provision of nursing or personal care.
- d) Section 15 of the Health Care Worker Background Check Act. Beginning January 1, 1996 when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (a) of this Section for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last year, the facility must initiate a UCIA criminal history record check for that applicant. Section 30(c) of the Health Care Worker Background Check Act. No later than January 1, 1997 a facility must initiate a UCIA criminal history record check for all employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check, and who are not exempt because of subsection (a) of this Section. The facility must also initiate a direct care for residents Section 15 check for all employees who were hired before January 1, 1996. The facility may request an authorized UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) or (e) of this Section.
- g) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprinted UCIA criminal history record search is made:
 - 1) That the facility shall request a non-fingerprint-based NCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
 - 2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (4) of this Section.
 - 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant is an employee of another facility who is not subject to the background check pursuant to subsection (1)(b) of this Section. The applicant receives a waiver pursuant to subsections (1) and (4) of this Section.
 - 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates

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indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j) and (k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j) and (k) of this Section. (Section 350.63(a) and (f) of the Health Care Worker Background Check Act)

6) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a NCJA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

7) An applicant or employee whose non-fingerprint-based NCJA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section may request the facility to submit a fingerprint-based NCJA criminal history record check. The facility may submit the information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

8) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following within 10 days after the receipt of the criminal records report:

1) A completed fingerprint-based NCJA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police); and

2) A certified check, money order or agency check made payable to the Department of State Police for the amount of money necessary to complete a fingerprint-based NCJA criminal records check.

9) The Department may grant a waiver based on mitigating circumstances, which may include:

1) The age at which the crime was committed;

2) The circumstances surrounding the crime;

3) The length of time since the conviction;

4) The applicant's or employee's criminal history since the conviction.

5) The applicant's or employee's work history;

6) The applicant's or employee's current employment references;

7) The applicant's or employee's character references;

8) Nurse Aide Registry records; and

9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently.

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and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 11(b) of the Health Care Worker Background Check Act)

1) A facility is not obligated to employ or offer permanent employment to an applicant or retain an employee who is granted a waiver. (Section 40(d) of the Health Care Worker Background Check Act)

2) This Section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law;

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State. (Section 20 of the Health Care Worker Background Check Act)

3) The facility must send a copy of the results of the NCJA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

4) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees, other than those who are subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 30 of the Health Care Worker Background Check Act)

5) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: July 15, 1996 20 Ill. Reg. 10065, effective

Section 350.633 Registry of Developmental Disabilities Aides

a) An individual will be placed on the Nurse Aide Registry when he/she has successfully completed a training program approved in accordance with the Long-Term Care Assistants and Aides Training Program Code (77 Ill. Adm. Code 395) and has met background check information required in Section 350.681 of this Part and when there are no findings of abuse, neglect or misappropriation of the property in accordance with Sections 3-206.01 and 3-206.02 of the Act.

b) An individual will be placed on the Nurse Aide Registry if he/she has met background check information required in Section 350.681 of this Part and submits documentation supporting one of the following equivalencies:

1) Documentation of current registration from another state as a developmental disabilities aide.

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4. In line 66 change "Administered" to "administered".
5. In lines 93 and 94 underline all text.
6. In line 112 insert "(RN)" after "Registered Nurse".
7. In line 121 delete "(RN)".
8. In line 139 strike out "or".
9. In line 133 insert "2" after "or".
10. In line 212 insert "for that agency" after "Disabilities".
11. In line 341 delete "timeframes" and insert "time frames".
12. In line 351 strike out "timeframe" and insert "time frame".
13. In line 374 delete "timeframes" and insert "time frames".
14. In line 392 strike out "timeframe" and insert "time frame".
15. In line 417 insert "2" after "twice".
16. In lines 608 and 609 strike out the quotation marks.
17. In 694 strike out "residents" and insert "residents".

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

1. In line 37, add "effective" before January.

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? The Department has made all the changes to which it agreed with the Joint Committee.
- 13) Will the Rules Replace an Emergency Rule Currently in effect? No
- 14) Are there any other Amendments Pending on this Part? No
- 15) Summary and Purpose of Rules:

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Section 395.50 is being added to define the following words: act, approved evaluator, approved manual skills, child care/habilitation aide, competency test, clinical practice instruction, curriculum coordinator, Department, developmental disabilities aide, direct contact, nurse, qualified mental retardation professional, physician, registered nurse, supervised laboratory, train the trainer workshop/program.

Section 395.100(b) recognizes a certification of exemption from the State Board of Education. Home health agencies are being added as locations that can sponsor training in (c). Statutory citations are being updated.

Application requirements for program approval are amended in Section 395.110. The word "trial" is deleted to allow the application process. For all programs, Subsection (a) is being deleted since a letter of application rather than an application is required. The new subsection (a) clarifies that a letter of application is required for each training program. A copy of the sponsor's certificate from the Board of Higher Education is required in subsection (b)(2). Subsection (b)(4) requires a statement that the Department's model program is being used, if it is. The requirement for a master calendar was deleted from subsection (b)(5). A curriculum coordinator must be identified for developmental disabilities aide training programs in subsection (b)(5)(D). Subsection (b)(6) requires the submission of valid Illinois licenses, as applicable. A description of tools used to evaluate the program, rather than a copy, can be substituted for subsection (b)(8). Subsection (b)(8)(C) requires a copy or description of tools used to evaluate clinical skills. A copy of the attendance policy is required in subsection (b)(9). Subsection (c) clarifies that developmental disabilities aides training programs are administered by the Department of Mental Health and Developmental Disabilities.

Section 395.120 clarifies the program approval process by deleting references to an application in (b) and (c). Federal citations are updated.

Section 395.130 clarifies the review process for approved programs in (b) by stating that the program shall be re-evaluated for compliance with (c) 2 or 3 and increase the number of evaluators in subsection (c). It indicates that the program shall be evaluated based on the number of students who successfully complete the course.

Section 395.140(a) clarifies that a program for which there has been no activity in the last year is inactive. Subsections (b) and (c) detail how an inactive program can return to an active status.

Section 395.150 specifies the hours for instruction. The maximum number of hours was deleted from (a)(1) and (b)(1). Subsection (a)(3) includes

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an example of the two to one ratio for training. The ratio of class vs. on-the-job-training is specified in subsection (b)(3).

Section 395.160(c)(1) clarifies the role of the curriculum coordinator. Subsection (c)(2) lists program instructor requirements of at least (A) being a qualified mental retardation professional with one year of experience in developmental disabilities (DD) programs; (B) having a valid teaching certificate and at least one year of (DD) experience; (C) being a community college instructor with familiarization with (DD) programs; and (D) being a registered nurse with one year of experience with (DD) programs. Reference to "current Illinois license" is deleted. The definition section is amended to add "DD" and "DD programs" and the definition section requires a registered nurse to have a current Illinois license.

Section 395.170 defines program operation. Subsection (a) requires that potential students be counseled on the requirements of the Health Care Worker Background Check Act [225 ILCS 46]. According to subsection (d), the manual skills evaluation applies only to individuals enrolled in an approved Basic Nursing Assistant Training Program; and an approved evaluator who is not an approved instructor must meet the requirements of Section 395.160 of this Part.

Section 395.173 defines the successful completion of a Basic Nursing Assistant Training Program as completing the (subsection (a)) theory and class clinical instruction; demonstrating manual skills competence; and (subsection (b)) passing the competency test.

Section 395.174 defines the successful completion of a Developmental Disabilities Aide or Child Care Rehabilitation Aide Training Programs as completing the theory and clinical instruction and any tests/quizzes/exams required by the program.

Section 395.175 was revised to clarify that program sponsors must notify the Department of those individuals who have successfully completed the training program. Subsection (d) recognizes that the signature of the curriculum coordinator can be given, if applicable.

Section 395.180 was repealed because the revised Section 395.130 more accurately reflects department monitoring procedures.

Section 395.190(a) deleted the reference to application.

Section 395.310 was revised to require that developmental disabilities aides training programs include those basic principles which are considered best practice by developmental disabilities service system leaders in the areas of active treatment, advocacy, choice/preference, communication/active listening, confidentiality, documentation, involvement/participation, normalization/age appropriate outcomes for

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people, people first language, quality assurance, respect/dignity, rights/responsibilities, self advocacy/empowerment, customer satisfaction, and appreciation for diversity. Subsection (b)(1) was added to require training in types and styles of communication with residents. "Control" was changed to "management and self control" in subsection (d)(6) to more accurately represent trends in the field. Several minor revisions were made to reflect people first language and an emphasis on community integration.

16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

The full text of the Adopted Amendments begins on the next page.

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TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 395

LONG-TERM CARE ASSISTANTS AND AIDS TRAINING PROGRAMS CODE

SUBPART A: PROGRAM APPLICATION AND APPROVAL PROCESS

Section	Definitions
395.30	Program Sponsor
395.100	Application for Inservice Program Approval
395.110	Application Review Process and Program Approval
395.120	Service Reviews of Approved Training Program Approval
395.130	Inactive Status
395.140	Minimum Hours of Instruction
395.150	Minimum Hours of Instruction
395.160	Minimum Hours of Instruction
395.170	Minimum Hours of Instruction
395.173	Successful Completion of the Basic Nursing Assistant Training Program
395.174	Successful Completion of the Developmental Disabilities Aide or Basic Child Care/Habilitation Aide Training Program
395.175	Program Notification Requirements
395.180	Department Monitoring (Repealed)
395.190	Denial, Suspension, and Revocation of Program Approval
395.200	Other Programs Conducted by Facilities (Repealed)

SUBPART B: TRAINING PROGRAM CURRICULA REQUIREMENTS

Section	Basic Nursing Assistant Training Program
395.300	Developmental Disabilities Aide Training Program
395.310	Basic Child Care/Habilitation Aide Training Program

SUBPART C: PROFICIENCY EXAMINATION

Section	Proficiency Examination
395.400	

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 1085].

SOURCE: Adopted at 13 Ill. Reg. 10874, effective December 1, 1989; amended at 17 Ill. Reg. 1984, effective February 12, 1991; amended at 20 Ill. Reg. 529, effective January 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10085, effective July 15, 1996.

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SUBPART A: PROGRAM APPLICATION AND APPROVAL PROCESS
Section 395.50 Definitions

Act - the Nursing Home Care Act [210 ILCS 145].

Approved evaluator - a registered nurse who has attended a Department-sponsored evaluator workshop, meets the Instructor Requirements in Section 395.160 of this Act, and has no fiduciary connection with the facility by which the candidate is employed or will be employed within 30 days of the evaluation.

Approved manual skills - the following tasks demonstrated by a candidate: washing hands, performing oral hygiene, hair care or nail care for a client, shaving a client's face, taking a client's oral temperature and pulse, measuring a client's respiration and blood pressure, making an occupied and unoccupied bed, feeding and dressing a client, measuring a client's weight and height, placing a client in a side-lying position, performing passive range of motion on a client, calculating a client's intake and output of fluids, transferring a client to a wheelchair using a safety belt, and giving a client a partial bath.

Child Care/Habilitation Aide - any person who provides nursing, personal or rehabilitative care to residents of licensed long-term care facilities for persons under 12 years of age, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Competency test - a comprehensive multiple choice test meeting the requirements of 42 CFR 483, administered by the Department or a school, agency or similar institution under agreement with the Department.

Clinical practice instruction - a teaching method used during the practical application of skill competencies on-the-job training - OJT in which the trainee explains and demonstrates skill competencies learned during the theory and OJT sessions to an acceptable level in the presence of an OJT instructor.

Curriculum Coordinator - in each Developmental Disabilities Aide Training Program, a qualified mental retardation professional who is responsible for planning, organization, management, coordination with training staff, compliance, documentation, and linkage with the Department and the Department of Mental Health and Developmental

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Programs-in-renewal-with-the-requirements-set-forth-in-this-Part

a) The Department will evaluate the application and proposed program for conformance to the program requirements contained in this Part. Based on this review, the Department will take one of the following actions regarding the application:

- 1) Grant approval of the proposed program.
- 2) Grant approval of the proposed program contingent on the receipt of additional materials, or revisions, needed to remedy any minor deficiencies in the application or proposed program, which would not prevent the program from being implemented, such as deficiencies in the number of hours assigned to cover different schedule or content, which can be corrected by submitting a revised application or contract.

- 3) Deny approval of the proposed program based on major deficiencies in the application or proposed program, which would prevent the program from being implemented, such as deficiencies in the qualifications of instructors or missing areas of content.

b) When the Department finds that an application or proposed program fails to comply with the program requirements contained in this Part or 42 CFR 483.151(b)(1)-(v) (October 1, 1994 58-PR-48919--September 29--1995, no further editions or amendments included), the Department will notify the sponsor in writing of the nature of the deficiencies, and will request additional materials, or revisions, needed to remedy deficiencies in the application or proposed program.

c) When the Department finds that an application and proposed program, along with any additional materials and revisions which have been submitted, do not comply with the program requirements contained in this Part, the Department will issue a written notice of program approval to the program sponsor.

d) The Department will issue an identification number to each approved training program sponsor. The sponsor shall reference that number in any correspondence to the Department about the program.

(Source: Amended at 20 Ill. Reg. 10-085, effective JUL 15 1996)

Section 395.130 Review Renewal of Approved Training Program Approval

- a) The Department will review each approved training program for renewal.
- b) The program approval at least every other year.

b) The program approval at least every other year. The program approval will include consideration of each of the following:

- 1) The master schedule for the program as outlined in Section 395.130(c)(1)(v).
- 2) Any financial statements as outlined in Section 395.130(c)(1)(v).

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- 3) Any other information required in Section 395.130(c)(1)(v) which has been previously approved by the Department.
- 4) Compliance with 42 CFR 483.151(b)(1)-(v).
- 5) On-site master schedule.

c) The expiration of an approved training program's students who successfully complete the training program will be considered by the Department in determining the need for additional on-site visits and other monitoring activities. The Department of Health and Human Services will review and either approve or disapprove applications for program renewal. The Department will also determine the need for additional monitoring activities. The Department will also determine the need for additional monitoring activities.

(Source: Amended at 20 Ill. Reg. 10-085, effective JUL 15 1996)

Section 395.140 Inactive Status

- a) The Department shall place an approved training program on inactive status upon receipt of a written request from the program sponsor for such action if there has been no absence of program activity during the last year. Program approval period shall result in placement of program on inactive status.

b) To return an approved training program that has been on inactive status for one year or less to active status, the sponsor of the program shall submit a written request to the Department detailing any changes in the approved training program and a master schedule in accordance with Section 395.130(b)(1) of this Part.

c) The request for return to active status shall include the master schedule and program approval. The Department will review the request for return to active status and either approve or disapprove the request. The Department will also determine the need for additional monitoring activities. The Department will also determine the need for additional monitoring activities.

d) The request for return to active status must be submitted no fewer than 60 days prior to the scheduled beginning of the program.

(Source: Amended at 20 Ill. Reg. 10-085, effective JUL 15 1996)

Section 395.150 Minimum Hours of Instruction Wireframe Requirements

- a) Time frame wireframe requirements for Basic Nursing Assistant Training Program. Each program shall include a minimum of 120 hours of instruction, excluding breaks, lunch, and any orientation to the specific policies of the employing facility. A program may include a

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following:

A) Verification of successful completion of at least one semester of training in the program approved by the Department of Health and Human Services.

B) Be a Qualified Mental Retardation Professional with at least one year of experience with developmentally disabled persons in the Department of Health and Human Services.

C) Be a graduate of a program approved by the Department of Health and Human Services.

D) Have a valid Illinois teaching certificate with at least one year of experience with developmentally disabled persons.

E) Be a community college or college instructor with at least one year of teaching experience and familiarization with developmentally disabled persons.

F) College coursework during the previous five years which includes teaching methodology and instructional techniques.

G) Be a registered nurse with at least one year of experience in a nursing home or hospital.

H) Supplemental to the above, the following are required: 1) A student shall be considered to have successfully completed the training program when all of the following are met: The student has completed at least 40 hours of theory and 40 hours of clinical instruction; 2) Demonstrated competence in the Department-approved manual skills; 3) A student must pass the Department-established competency test.

(Source: Amended at 20 Ill. Reg. 10085, effective JUL 15 1996)

Section 395.170 Basic-Nursing-Assistant-Training Program Operation Requirements

A) The program shall provide counseling to all individuals seeking admission to the program concerning the Health Care Worker Background Check Act (225 ILCS 16). The counseling must include, at a minimum, a clear statement that a JCIA Criminal Background Check is required for the individual to work as a nursing assistant, developmental disabilities aide, or basic child care habilitation aide in Illinois, and a listing of those sections of the Criminal Code of 1961 (720 ILCS 5/1, the Cannabis Control Act (720 ILCS 550), and the Illinois Controlled Substances Act (720 ILCS 570) for which a conviction would disqualify the individual from finding employment as a nursing

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assistant.

B) Ten working days prior to the start of the actual training program, an updated master schedule, in accordance with Section 395.10(1)(3) of this Part, shall be submitted to the Department.

C) Any change in program content, objectives, instructors shall be delivered to the Department at least thirty days prior to program delivery.

D) In the Basic Nursing Assistant Training Program, the program shall require each student to show competency of Department approved manual skills by hands-on return demonstration-as well-as-the successful completion of a written-examination-emphasizing-theory-and-skills-taught. The manual skills competency evaluation shall be conducted by an approved evaluator. Approved evaluators employed by a facility may not evaluate students trained by the facility program.

The facility shall assure that an approved evaluator who is not an approved instructor meets the requirements of Section 395.60 of this Part.

(Source: Amended at 20 Ill. Reg. 10085, effective JUL 15 1996)

Section 395.173 Successful Completion of the Basic Nursing Assistant Training Program

A) A student shall be considered to have successfully completed the training program when all of the following are met: The student has completed at least 40 hours of theory and 40 hours of clinical instruction;

2) Demonstrated competence in the Department-approved manual skills;

3) A student must pass the Department-established competency test.

(Source: Amended at 20 Ill. Reg. 10085, effective JUL 15 1996)

Section 395.174 Successful Completion of the Developmental Disabilities Aide or Basic Child Care/Habilitation Aide Training Program

A student shall be considered to have successfully completed the training program when the student has completed the theory and clinical instruction and tests/quizzes/exams in accordance with the sponsor's policies.

(Source: Amended at 20 Ill. Reg. 10085, effective JUL 15 1996)

Section 395.175 Program Notification Requirements

The program sponsor shall submit, within 30 days after program completion, a list of all trainees who have successfully completed demonstrate competency in

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the theory and skills taught in the training program. The list shall include the following information: address and Social Security number of the trainee;

b) Identification number of the training program;

c) Assessment that the individual has completed the Basic-Nursing Assistant training program and documented completion of the State approved manual skills competency evaluation; or a Developmental Disabilities Aide Training Program or Basic Child Care-Habilitation Aide Training Program.

Get Program completion date;

Get Signature of the program instructor and approved evaluator, when appropriate, or curriculum coordinator, as applicable. (Any additional signatures are optional.)

(Source: Amended at 20 Ill. Reg. 10085, effective JUL 15 1996.)

Section 395.180 Department Monitoring (Repealed)

a) The Department will monitor the operation of approved training programs through on-site visits and other monitoring activities, such as reviews, inquiries, reviews of success rates, on-site competency examinations, and questionnaires. The Department will conduct on-site visits prior to approval or renewal or at least every two years after approval. The proportion of the training program at students who successfully complete the competency evaluation will be considered by the Department in determining the need for on-site visits and other monitoring activities.

b) The Department will monitor the operation of the program to comply with the Department's rules and regulations. The Department will revoke the program approval if the Department finds that the program fails to comply with the Department's rules and regulations. The Department will initiate action to suspend or revoke the program approval in accordance with Section 395.180.

(Source: Amended at 20 Ill. Reg. 10085, effective JUL 15 1996.)

Section 395.190 Denial, Suspension, and Revocation of Program Approval

a) When the Department finds that an application or proposed program, along with any additional information and revisions which are submitted, fails to comply with the program requirements contained in this Part of the Department's rules and regulations, the Department will deny the application.

b) When the Department finds that a program approval notice to the sponsor shall state the reason for denial and the Department's decision to deny the application and the Department will initiate action to suspend or revoke the program approval.

c) When the Department finds that a program approval notice to the sponsor shall state the reason for denial and the Department's decision to deny the application and the Department will initiate action to suspend or revoke the program approval.

d) When the Department finds that a program approval notice to the sponsor shall state the reason for denial and the Department's decision to deny the application and the Department will initiate action to suspend or revoke the program approval.

e) When the Department finds that a program approval notice to the sponsor shall state the reason for denial and the Department's decision to deny the application and the Department will initiate action to suspend or revoke the program approval.

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will notify the sponsor in writing of the finding of non-compliance of the program and the reasons for the finding.

c) When the Department finds that any conditions stated in the written notice of non-compliance issued under subsection (b) of this Section have not been corrected within thirty days after the date of the written notice, the Department will revoke or suspend its approval of the program.

d) The Department shall suspend approval when the program fails to substantially comply with the approved program plan during the operation of the program. Substantial failure to comply with the approved program plan includes program instruction being conducted contrary to the master schedule, contrary to the approved content, by an individual other than the approved instructor, or at a location other than the approved site or sites.

e) The Department will revoke approval when an approved program fails to comply with the program requirements of this Part of 42 CFR 483.151(b)(2)(i-v).

f) When an approved program has been suspended or revoked for reasons other than 42 CFR 483.151(b)(2)(i-v), the program sponsor shall have a right to appeal the suspension or revocation and to a hearing before the Department.

g) When the approval of a program has been denied, suspended, or revoked, for reasons other than 42 CFR 483.151(b)(2)(i-v), the program sponsor may submit a written appeal of the action and request for a hearing within ten days after notification of the decision to deny, revoke or suspend approval.

h) All hearings under this Part shall be conducted in accordance with the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

(Source: Amended at 20 Ill. Reg. 10085, effective JUL 15 1996.)

Section 395.310 Developmental Disabilities Aide Training Program

The Developmental (DD) Disabilities Aide Training Program shall include, at a minimum, the following values, themes, and attitudes, which are considered to be current best practice by the developmental disabilities service system leaders in the field: active treatment, advocacy, choice/preference, communication/active listening, confidentiality, documentation, involvement/participation, normalization, appropriate outcomes for people, people first, language, quality assurance, respect/dignity, rights/responsibilities, self-advocacy/empowerment, customer satisfaction, and appreciation for diversity. At a minimum, the curriculum will also include the following:

a) Orientation

b) Functions of long-term care facilities for individuals with

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developmental disabilities the developmentally disabled

- 2) The health care professions, support services for individuals with the developmentally developmental disabilities disabled and community social service agencies
- 3) Philosophy of residential care and community living
- 4) Role of the interdisciplinary team
- 5) Roles and responsibilities of the DD Aide
- b) Individual and responsibilities of the DD Aide
 - 1) Roles and responsibilities of the DD Aide
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- c) Foundations of Rehabilitation Planning
 - 1) Philosophy of achieving independent living skills
 - 2) Introduction of the individual habilitation plan including the role of each employee in the habilitation process
 - 3) Habilitation plan assessment procedures and goal setting planning
 - 4) The role of the employee in the admission, transfer and discharge procedures
 - 5) The role of the employee in basic resident care planning and procedures
 - 6) Techniques of habilitation planning and implementation. The role of the employee in social habilitation, including:
 - a) Activities of daily living (ADL)
 - b) Therapeutic and leisure time activities
 - c) Education
 - d) Community living adjustment
 - e) Behavior development
 - f) Behavior management and self control control
 - g) Effect of drugs in behavior management and illness
 - h) Effective total team communication
 - i) Pre-vocational and vocational training
 - j) Vocational training and placement
 - k) Diet and therapeutic diets
 - l) Principles of record keeping
 - 7) History and use of facility records with special emphasis on the role of the employee in the record keeping process
 - 8) Content and organization of resident records
 - 9) Recording methods for progress notes, universal notes, ABC notes and habilitation reviews
 - 10) Writing effective progress notes
 - 11) Confidentiality
 - 12) Recording admission, transfer and discharge information
- e) Safety
 - 1) Basic fire safety

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- 2) Emergency and disaster procedures
- 3) Injury prevention techniques
- 4) Household daily safety procedures including body mechanics
- g) Facility Environment
 - 1) Creating normalized environment for daily living activities
 - 2) Importance of cleanliness of the facility, use of equipment and supplies
- h) Principles of Disease Control
 - 1) Introduction to micro-organisms causing resident illness and
 - 2) Teaching of disinfection and sanitation
- i) Emergency Medical Procedures
 - 1) Cardiopulmonary resuscitation (CPR)
 - 2) Seizures
 - 3) Drug reactions
 - 4) Traumas
 - 5) Heimlich maneuver
- j) Resident Rights
 - 1) Basic civil, human and legal rights of residents
 - 2) Protection of residents' residents personal property
- k) Bodily Functions
 - 1) Helping residents to understand their body functions
 - 2) Personal hygiene
 - 3) Human sexual behavior

(Source: Amended at 20 Ill. Reg. effective JUL 15 1996)

10085

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 390
- 3) Section Numbers:
390.680 Amendments
390.681 New Section
390.683 New Section
- 4) Statutory Authority: Nursing Home Care Act (210 ILCS 45)
- 5) Effective Date of Rules: July 15, 1996
- 6) Does this Rulemaking Contain an Automatic Repeal Date? No
- 7) Does this Rulemaking Contain Any Incorporations By Reference? Yes
- 8) Date Filed in Agency's Principal Office: July 15, 1996
- 9) Date Notice(s) of Proposal was Published in Illinois Register: January 5, 1996 - 10 Ill. Reg. 214
- 10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this Notice? No
- 11) Difference Between Proposal and Final Version: The following changes were made in response to comments received during the first notice of public comment period:
 1. In line 245 change "registry" to "registry".
 2. In line 301 strike out "aide".
 3. In line 213 strike out "nursing assistants" and insert "child care rehabilitation aides or developmental disabilities aides".
 4. In line 315 insert "aide" after "disabilities".
 5. In line 395 after "(210 ILCS 5)" add "(formerly Ill. Rev. Stat. 1991, ch. 39, pars. 9-9, 9-12, 9-21, 9-3, 9-31, 9-32, and 9-33)".
 6. In line 397 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7)".
 7. In line 399 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-11, and 10-4)".

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8. In line 362 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7)".
9. In line 364 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-13, 12-14, 12-15, and 12-16)".
10. In line 366 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19)".
11. In line 368 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21)".
12. In line 371 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3)".
13. In line 373 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4)".
14. In line 375 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1)".
15. In line 377 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 21-1 and 24-1.2)".
16. In line 380 after "and 91" add "(formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 755, 755.5, and 759)".
17. In line 384 after "and 407.11" add "(formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)".
18. In lines 390 and 391 delete "(1) and" and insert "and (k)" after "(j)".
19. In line 397 delete "bond" and insert "bona".
20. In line 408 delete "(1) and insert "(m)".
- 20a. In line 413 delete "year" and insert "12 months".
21. In line 420 delete "(1) and insert "(m)".
22. After line 422 add the following:
f) The facility may accept an authentic NCTA criminal history record if the facility has contacted within the last 12 months either than initiating a check as required in subsection (d) or (e) of this Section.
23. In line 423 delete "(j) and insert "(j)".

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24. In line 427 before "UCIA" add "non-fingerprint-based".
25. In line 433 delete "(i)" and insert "(j)".
26. In line 435 before "Criminal" add "non-fingerprint-based".
27. In line 441 delete "(b)" and insert "(j)".
28. In lines 442 and 443 delete "(i) and" and insert "and (k)" after "(j)".
29. In line 445 before "Criminal" add "non-fingerprint-based".
30. In line 449 delete "(b)" and insert "(j)".
31. In line 451 delete "(i) and" and insert "and (k)" after "(j)".
32. In line 457 delete "(b)" and insert "(j)".
33. In line 458 delete "(i) and" and insert "and (k)" after "(j)".
34. In line 460 delete "(j)" and insert "(j)".
35. In line 464 delete "(b)" and insert "(j)".
36. In line 464 insert "non-fingerprint-based" before "UCIA".
37. In line 471 delete "(j)" and insert "(j)".
38. In line 474 delete "INFORMATION NECESSARY TO INITIATE A" and insert "A completed".
39. In line 475 delete "IN A FORM AND MANNER PRESCRIBED BY THE" and insert "form".
40. In line 476 delete "DEPARTMENT OF STATE POLICE".
41. In line 477 insert "which the Department will forward to the Illinois State Police" before "i and".
42. In line 478 delete "of" and insert "a" after "check"; add "or agency check" after "order".
43. In line 481 delete "(j)" and insert "(k)".
44. In line 490 delete "AND".
45. After line 490 add "g" NURSE AIDE REGISTRY RECORDS; AND".

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46. In line 491 delete "g" and add "g".
47. In line 496 delete "(k)" and add "(j)".
48. In line 496 change "IS" to italic type.
49. In line 500 delete "(j)" and add "m".
50. In line 500 delete "of" and insert "or".
51. In line 508 delete "m" and add "n".
52. In line 510 add "Health Care Worker Background Check" after "the".
53. In line 510 add after "SCU": "The facility shall include the individual's Social Security number on the criminal history record check results".
54. In line 511 delete "n" and insert "ol".
55. In line 513 after "aides" add "who are on the Department's Nurse Aide Registry".
56. After line 516 add:

D The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.
57. Each time they appear, lowercase "Criminal History Record Check", "Criminal Records Report", and "Criminal History Record".
The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:
 1. In line 356, after "s" add "9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3".
 2. In line 434, add "(c)" after "Section 30".
 3. In line 440, add "(d)" after "Section 30".
 4. In line 482, add "(e) and (f)" after "Section 30".
 5. In line 485, add "(g)" after "Section 30".
 6. In line 499, add "(a)" after "Section 40".
 7. In line 515, add a semicolon at the end.

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8. In line 521, add "(b)" after "Section 10".

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the argument letter issued by the Joint Committee? The Department has made all the changes to which it agreed with the Joint Committee.

- 13) Will the Rules Replace an Emergency Rule Currently in Effect? No

- 14) Are there any other Amendments Pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
390.330	Amendments	19 Ill. Reg. 14607
390.340	Amendments	19 Ill. Reg. 14607
390.310	Amendments	19 Ill. Reg. 14607
390.312	New Section	19 Ill. Reg. 14607
390.314	New Section	19 Ill. Reg. 14607
390.316	New Section	19 Ill. Reg. 14607
390.320	Amendments	19 Ill. Reg. 14607
390.330	Repealer	19 Ill. Reg. 14607
390.340	Amendments	19 Ill. Reg. 14607
390.420	Amendments	19 Ill. Reg. 14607
Appendix C	New Section	19 Ill. Reg. 14607

- 15) Summary and Purpose of Rules:

The rules in Part 390 establish requirements for the licensure of long-term care facilities for persons under age 21. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-97, effective July 21, 1995).

Section 390.680 is amended to include new requirements for nursing assistants, child care habilitation aides, and developmental disabilities aides under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out whether the individual has a current background check. Provisions concerning placement of a nursing assistant or aide on the Registry are deleted, since a new Section 390.693 is being added to specify and clarify Registry requirements.

Section 390.681 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly

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employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (m). A new subsection (f) added at second notice allows a facility to accept a UCIA background check conducted within the last 12 months. Notification requirements to the applicant and employee are set forth in subsection (g). Subsection (h) requires facilities to conduct background checks for individuals whose non-fingerprint for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (k). Facilities are not obligated to employ applicants who are granted waivers (subsection (l)). Subsection (n) requires facilities to send a copy of the results of the background check and the individual's Social Security number to the State nurse aide registry. Requirements for retention of records are set forth in subsections (o) and (p).

Section 390.693 is added to set forth requirements for registry of child care habilitation aides, which are expanded under P.A. 89-197.

- 16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 390

LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
390.120	General Requirements
390.120	Application for License
390.130	License
390.140	Issuance of an Initial License for a New Facility
390.150	Issuance of an Initial License Due to a Change of Ownership
390.160	Issuance of a Renewal License
390.165	Criteria for Adverse License Actions
390.170	Denial of Initial License
390.175	Denial of Renewal of License
390.180	Revocation of License
390.180	Experimental Program Conflicting With Requirements
390.190	Inspections, Surveys, Evaluations and Consultation
390.200	Filing an Annual Attested Financial Statement
390.210	Information to be Made Available to the Public by the Department
390.220	Information to be Made Available to the Public By the Licensee
390.230	Mandatory Disclosure
390.240	Issuance of Conditional License
390.250	Monitor and Receivability
390.270	Presentation of Findings
390.271	Determination to Issue a Notice of Violation or Administrative Warning
390.272	Determination of the Level of a Violation
390.274	Notice of Violation
390.276	Administrative Warning
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disabilities aides shall comply with one of the following conditions

- 1) provide documentation of registration on the Department's Nurse Aide Registry.
- 2) Enroll in a child care/habilitation aide training program, in a developmental disabilities aide training program, or in a department approved basic nursing assistant training program (see 77 Ill. Admin. Code 395). The program coursework-and-the 77 Ill. Admin. Code 395, effective 12/1/97-and-nursing-aide shall be successfully completed no later than 120 days after the date of initial enrollment. Program approved in accordance with 77 Ill. Admin. Code 395.15(a)(2) may last longer than 120 days. However, nursing assistant, child care/habilitation aide, or developmental disabilities aide may be employed no more than 120 days prior to the successful completion of the program coursework-and-the competency evaluations.

(d) The facility shall certify to the Department that each child
care/habilitation aide or developmental disability aide employed by
the facility child-care/habilitation-aide-assigned-by-the-facility
meets the requirements of this Section of this Section. Such
certification shall be retained by the facility as part of the
proof of equivalent knowledge. (Section 3-206(a)(4) of the Act)

- a) employee's personnel record, (Section 3-206(c) 44-manner of the Act.) During inspections of the facility, the administrator may require child care habilitation aides or developmental disabilities aides assisting with the child care habilitation program for child care habilitation training to demonstrate competency in the principles, techniques, and procedures covered by the child care habilitation aids - nursing developmental disabilities training programs for child care habilitation training. The State approved manual skills training program described in 77 Ill. Adm. Code 395-210 and 395-320, when possible problems in the care are provided by child care habilitation aids or other evidences of inadequate training are observed. The State approved manual skills emergency evaluation testing format and forms will be used to determine competency of a child care habilitation aide or developmental disabilities aid nurse-nurse-nurse when appropriate. Failure to demonstrate competency of the principles, techniques and procedures shall result in the provision of in-service training to the individual by the facility. The in-service training shall include the child Care-habilitation aids - nursing developmental disabilities aids training program. Child-care-training techniques relative to the procedures in which the child-care-training aids are found to be deficient during the inspection (see 77 Ill. Adm. Code 395).
- b) A facility which conducts a recognized training program for child care habilitation aids shall comply with the applicable provisions of the Department rules governing training programs for nursing assistants and aides (see 77 Ill. Adm. Code 395-2809).
- c) A facility shall not employ an individual as a child care habilitation aide unless the facility has required the individual complete the information in the registry concerning the individual's employment history, education, residency, age, anticipated resident population, Section 3-606(a) of the Act.
- d) A facility shall not employ anyone on the facility unless the individual has completed a training program in accordance with the standards established in a training program as prescribed by the Act.

Section 390.681 Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual after January 1, 1996 in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit

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one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act (725 ILCS 46/25)):

- 1) Murder, homicide, manslaughter, or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 (720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3));
- 2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7));
- 3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4));
- 4) Assault, battery or infliction of great bodily harm (Sections 12-4, 12-4.2, 12-4.3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.5, and 12-4.7 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.5, and 12-4.7));
- 5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-13, 12-14, 12-15, and 12-16));
- 6) Abuse or gross neglect of a long-term care facility resident (Section 12-13 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-13));
- 7) Criminal sexual abuse of an elderly or disabled person (Section 12-13.1 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-13.1));
- 8) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1, and 19-3 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1, and 19-3));
- 9) Criminal trespass (Section 19-4 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
- 10) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, par. 20-1 and 20-1.1));
- 11) Unlawful use of weapons or dangerous instruments of a firearm (Sections 21-1 and 21-1.1 of the Criminal Code of 1961 (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 21-1 and 21-1.1));
- 12) Manufacture, delivery or trafficking of cannabis (Sections 2, 3, 4, 5, and 6 of the Cannabis Control Act (720 ILCS 550/2, 3, 4, 5, and 6) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 705-1, 705-1.1, 705-1.2, 705-1.3, 705-1.4, 705-1.5, 705-1.6, 705-1.7, 705-1.8, 705-1.9, 705-1.10, 705-1.11, 705-1.12, 705-1.13, 705-1.14, 705-1.15, 705-1.16, 705-1.17, 705-1.18, 705-1.19, 705-1.20, 705-1.21, 705-1.22, 705-1.23, 705-1.24, 705-1.25, 705-1.26, 705-1.27, 705-1.28, 705-1.29, 705-1.30, 705-1.31, 705-1.32, 705-1.33, 705-1.34, 705-1.35, 705-1.36, 705-1.37, 705-1.38, 705-1.39, 705-1.40, 705-1.41, 705-1.42, 705-1.43, 705-1.44, 705-1.45, 705-1.46, 705-1.47, 705-1.48, 705-1.49, 705-1.50, 705-1.51, 705-1.52, 705-1.53, 705-1.54, 705-1.55, 705-1.56, 705-1.57, 705-1.58, 705-1.59, 705-1.60, 705-1.61, 705-1.62, 705-1.63, 705-1.64, 705-1.65, 705-1.66, 705-1.67, 705-1.68, 705-1.69, 705-1.70, 705-1.71, 705-1.72, 705-1.73, 705-1.74, 705-1.75, 705-1.76, 705-1.77, 705-1.78, 705-1.79, 705-1.80, 705-1.81, 705-1.82, 705-1.83, 705-1.84, 705-1.85, 705-1.86, 705-1.87, 705-1.88, 705-1.89, 705-1.90, 705-1.91, 705-1.92, 705-1.93, 705-1.94, 705-1.95, 705-1.96, 705-1.97, 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- 2) That the applicant or employee has a right to obtain a copy of the criminal records report, complete and accurate, and to request a waiver in accordance with subsection (i) of this Section.
- 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j) and (k) of this Section.
- 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j) and (k) of this Section.
- 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j) and (k) of this Section.
- 6) A facility may conditionally employ an applicant to provide direct care for no more than 90 days pending results on a UCIA criminal history record check pursuant to Section 20(a) of the Health Care Worker Background Check Act.
- 7) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section may request the facility to commence a fingerprint-based UCIA criminal records check by submitting information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)
- 8) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following within 30 days after the receipt of the criminal records report:
 - 1) A completed fingerprint-based UCIA Criminal Records Check form [Section 40(a) of the Health Care Worker Background Check Act] which the Department will forward to the Illinois State Police; and

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- 2) A certified check, money order or agency check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.
- 3) The Department may grant a waiver based on mitigating circumstances, which may include:
 - 1) The age at which the crime was committed;
 - 2) The nature and circumstances of the crime;
 - 3) The length of time since the crime;
 - 4) The applicant's or employee's criminal history since the conviction;
 - 5) The applicant's or employee's work history;
 - 6) The applicant's or employee's current employment references;
 - 7) The applicant's or employee's character references;
 - 8) Other evidence demonstrating the ability of the applicant or employee to reform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)
- 4) A facility is not obligated to employ or offer permanent employment to an applicant or retain an employee who is granted a waiver. (Section 40(d) of the Health Care Worker Background Check Act)
- 5) This Section shall become effective on the date of the Department of Public Health's regulation under another law, or
- 6) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law, or
- 7) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State. (Section 20 of the Health Care Worker Background Check Act)
- 8) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.
- 9) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nursing aides, who are on the Department of Public Health's criminal history record check subject to inspection by the Department. The annual fine of \$500 shall be imposed for failure to maintain these records. (Section 30 of the Health Care Worker Background Check Act)
- 10) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Added at 20 111. Reg. 10106, effective JUL 15 1996)

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8. In line 312 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21)".
9. In line 315 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-1)".
10. In line 317 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4)".
11. In line 319 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1)".
12. In line 321 after "1961" add "(formerly Ill. Rev. Stat. 1991, ch. 38, pars. 21-1 and 21-1.2)".
13. In line 324 after "and 91" add "(formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705.1, and 709)".
14. In line 328 after "and 107.11" add "(formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)".
15. In lines 334 and 335 delete "(1) and" and insert "and (k)" after "(1)".
16. In line 352 delete "(1)" and insert "(m)".
17. In line 356 after "Act" add: If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.

18. In line 360 delete "(1)" and insert "(m)".

19. After line 362 add the following:

E) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (1) of (c). See this section.

20. In line 363 delete "f)" and insert "g)".

21. In line 367 before "UCIA" add "non-fingerprint-based".

22. In line 373 delete "(1)" and insert "(1)".

23. In line 375 before "Criminal" add "non-fingerprint-based".

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24. In line 381 delete "(b)" and insert "(1)".
25. In lines 382 and 383 delete "(1) and" and insert "and (k)" after "(1)".
26. In line 385 before "Criminal" add "non-fingerprint-based".
27. In line 389 delete "(b)" and insert "(1)".
28. In line 391 delete "(1) and" and insert "and (k)" after "(1)".
29. In line 397 delete "(b)" and insert "(1)".
30. In line 398 delete "(1) and" and insert "and (k)" after "(1)".
31. In line 400 delete "g)" and insert "h)".
32. In line 404 delete "h)" and insert "(1)".
33. In line 404 insert "non-fingerprint-based" before "UCIA".
34. In line 411 delete "(1)" and insert "(1)".
35. In line 415 delete "INFORMATION NECESSARY TO INITIATE A" and insert "A completed".
36. In line 416 delete "IN A FORM AND MANNER PRESCRIBED BY THE" and insert "form".
37. In line 417 delete "DEPARTMENT OF STATE POLICE".
38. In line 418 insert "to which the Department will forward to the Illinois State Police" before "and".
39. In line 419 delete "or" and insert "and" after "check"; add "of facility check" after "order".
40. In line 422 delete "(1)" and insert "(k)".
41. In line 431 delete "and".
42. After line 431 add "(8) NURSE AIDE REGISTRY RECORDS; AND".
43. In line 432 delete "g)" and add "h)".
44. In line 437 delete "k)" and add "(1)".
45. In line 441 delete "(1)" and add "m)".

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46. In line 449 delete "n]" and add "n]."
47. In line 451 insert "Health Care Worker Background Check" before "Act".
48. In line 451 insert after "Act": "The facility shall include the individual's Social Security number on the criminal history record check results."
49. In line 452 delete "n]" and add "o]."
50. In line 454 after "slides" add "who are on the Department's Nurse Aide Registry".
51. After line 456 add:
 b) The facility shall maintain a copy of the employee's criminal history record check results and, if applicable, in the personnel file of other secure location accessible to the Department.
52. Each time they appear, lowercase "Criminal History Record Check", "Criminal Records Report", and "Criminal History Record".
- The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:
- In line 399, after "5" add "9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3".
 - In line 373, add "(c)" after "Section 30".
 - In line 382, add "(d)" after "Section 30".
 - In line 424, add "(e) and (f)" after "Section 30".
 - In line 427, add "(g)" after "Section 30".
 - In line 412, add "(h)" after "Section 40".
 - In line 458, add a semicolon at the end.
 - In line 454, add "(b)" after "Section 40".

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

- 12) Have all the changes listed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint

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- Committee? The Department has made all the changes to which it agreed with the Joint Committee.
- 13) Will the Rules Replace an Emergency Rule Currently in Effect? No
- 14) Are there any other Amendments Pending on this Part? Yes
- | Section Numbers | Proposed Action | Ill. Reg. Citation |
|-----------------|-----------------|--------------------|
| 330.330 | Amendments | 19 Ill. Reg. 14660 |
| 330.1140 | Repealer | 19 Ill. Reg. 14660 |
| 330.1145 | New Section | 19 Ill. Reg. 14660 |
| 330.1150 | New Section | 19 Ill. Reg. 14660 |
| 330.1155 | New Section | 19 Ill. Reg. 14660 |
| 330.Appendix E | New Section | 19 Ill. Reg. 14660 |
- 15) Summary and Purpose of Rules: The rules in Part 330 establish requirements for the licensure of sheltered care facilities in Illinois. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 99-197, effective July 21, 1995).

Section 330.910 is amended to include new requirements for nursing assistants under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out whether the individual has a current background check.

Section 330.911 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms applicant, conditional offer of employment, and applicant's criminal history are included in subsection (c). Subsection (d) requires facilities to initiate uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (m). A new subsection (f) added at second notice allows a facility to accept a UCIA background check conducted within the last 12 months. Notification requirements to the applicant of employment are set forth in subsection (g). Subsection (h) contains a provision for conditional employment, and subsection (i) concerns requests for

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finger-print-based records checks for individuals whose non-finger-print check indicates a conviction. Under subsection (j), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (k). Facilities are not obligated to employ applicants who are granted waivers (subsection (l)). Subsection (n) requires facilities to send a copy of the results of the background check and the individual's Social Security number to the State nurse aide registry. Requirements for retention of records are set forth in subsections (o) and (p).

16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Ms. Gail DeVito
Division of Governmental Affairs
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

The full text of the Adopted Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 330

SHELTERED CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
330.110	General Requirements
330.120	Application for License
330.130	License
330.140	Issuance of an Initial License for a New Facility
330.150	Issuance of an Initial License Due to a Change of Ownership
330.160	Issuance of a Renewal License
330.165	Criteria for Adverse License Actions
330.170	Denial of Initial License
330.175	Denial of Renewal of License
330.180	Revocation of License
330.190	Experimental Program Conflicting With Requirements
330.200	Inspections, Surveys, Evaluations and Consultation
330.210	Filing an Annual Attested Financial Statement
330.220	Information to be Made Available to the Public by the Department
330.230	Information to be Made Available to the Public by the Licensee
330.240	Mutual Licensee
330.250	Ownership Disclosure
330.260	Issuance of Conditional Licenses
330.270	Monitoring and Receivership
330.271	Presentation of Findings
330.272	Determination to Issue a Notice of Violation or Administrative Warning
330.274	Determination of the Level of a Violation
330.275	Notice of Violation
330.277	Administrative Warning
330.278	Plans of Correction
330.280	Reports of Correction
330.282	Conditions for Assessment of Penalties
330.284	Calculation of Penalties
330.286	Determination to Assess Penalties
330.288	Penalties for Violations
330.290	Quarterly List of Violators
330.300	Alcoholism Treatment Programs in Long-Term Care Facilities
330.310	Department May Survey Facilities Formerly Licensed
330.320	Waivers
330.330	Definitions
330.340	Incorporated and Referenced Materials

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SUBPART B: ADMINISTRATION

Section

330.510

Administrator

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AUTHORITY: Implementing and authorized by the Nursing Home Care Act (210 ILCS 45).

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547, effective November 3, 1982; amended at 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill. Reg. 11790, amended at 11 Ill. Reg. 2424, effective November 28, 1984; amended at 8 Ill. Reg. 13660, effective December 1, 1984; amended at 9 Ill. Reg. 76392, effective February 25, 1985; amended at 9 Ill. Reg. 10071, effective July 1, 1985; amended at 11 Ill. Reg. 5679, effective October 1, 1987; amended at 12 Ill. Reg. 1017, effective December 24, 1987; amended at 12 Ill. Reg. 16870, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 16939, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6569, effective April 17, 1989; amended at 13 Ill. Reg. 19880, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg. 14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2405, effective February 3, 1993, for a maximum of 150 days; emergency expired on

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July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180, effective January 1, 1994; amended at 17 Ill. Reg. 12558, effective October 26, 1993; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill. Reg. 12319, effective October 25, 1994; amended at 18 Ill. Reg. 11847, effective July 29, 1995; amended at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10125, effective JUL 15 1996.

SUBPART D: PERSONNEL

Section 330.910 Personnel

a) A facility shall not employ an individual as a nurse aide of a person who performs these types of duties unless the facility has inquired of the Department as to information in the Registry concerning the individual. Section 3-206.11 of the Act (The Department shall advise the employer if the individual is on the Registry, if the individual has findings of abuse, neglect or misappropriation of funds, or in accordance with Sections 3-206.01 and 3-206.02 of the Act, or if the individual is a current background check. (Use Section 330.911 of this Part).
 b) Sufficient staff in numbers and qualifications shall be on duty all hours of each day to provide services that meet the total needs of the residents. As a minimum, there shall be at least one staff member awake, dressed, and on duty at all times. (A, B)
 c) The facility shall provide an administrator as set forth in Subpart B. (B)

d) The facility shall provide activity personnel as set forth in Section 330.1310(b). (B)

e) The facility shall provide dietary personnel as set forth in Sections 330.1910 through 330.1920. (B)

f) Facilities that care for mentally retarded or discharged psychiatric residents shall be required to have a social worker who shall be on duty at least 40 hours per week providing that facility with a "registry" for those residents who are residing in the facility. Facilities shall have social workers who may be assigned other duties or shared with other facilities. (B)

(Source: Amended at 20 Ill. Reg. 10125, effective

JUL 15 1996)

Section 330.911 Health Care Worker Background Check

a) The facility shall not knowingly hire any individual after January 1,

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- the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (i) of this Section.
- 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (i) and (k) of this Section.
- 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (i) and (k) of this Section.
- 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the employee receives a waiver pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsection (i) of this Section and (k) of this Section.
- 6) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a VCRA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act).
- 7) An applicant or employee whose non-fingerprint-based VCRA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section shall be considered to have a disqualifying fingerprint-based VCRA criminal records check by submitting information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act).
- 8) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following to the Department within 30 days after the receipt of the criminal records report.
- 1) A completed fingerprint-based VCRA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police); and

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- 2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based VCRA criminal records check.
- 3) The Department may grant a waiver based on mitigating circumstances, which may include:
- 1) The age at which the crime was committed;
 - 2) The circumstances surrounding the crime;
 - 3) The length of time since the conviction;
 - 4) The applicant's or employee's criminal history since the conviction;
 - 5) The applicant's or employee's work history;
 - 6) The applicant's or employee's current employment references;
 - 7) The applicant's or employee's character references;
 - 8) Nurse Aide Registry records; and
 - 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 10(b) of the Health Care Worker Background Check Act)
- 4) A facility is not obligated to employ or offer permanent employment to an applicant or retain an employee who is granted a waiver. (Section 40(d) of the Health Care Worker Background Check Act)
- 5) This Section shall not apply to:
- 1) An individual who is employed by the Department of Professional Regulation or the Department of Public Health under another law; or
 - 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State. (Section 20 of the Health Care Worker Background Check Act)
- 6) The facility must send a copy of the results of the VCRA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act)
- 7) The facility shall include the individual's Social Security number in the criminal history record check results.
- 8) The facility shall retain on file for a period of 5 years records of the facility's requests for all employees other than nurse aides who are on the Department's Nurse Aide Registry. The file shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)
- 9) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Added at 20 Ill. Reg. 10125, effective
JUL 15 1996)

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code2) Code Citation: 77 Ill. Adm. Code 3003) Section Numbers: Adopted Action:

300.60 New Section

300.61 New Section

300.663 New Section

4) Statutory Authority: Nursing Home Care Act (210 ILCS 45)5) Effective Date of Rules: July 15, 19966) Does this Rulemaking Contain an Automatic Repeal Date? No7) Does this Rulemaking Contain Any Incorporations By Reference? Yes8) Date Filed in Agency's Principal Office: July 15, 19969) Date Notice(s) of Proposal was Published in Illinois Register: January 5, 1996 - 20 Ill. Reg. 25010) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this/these Rule(s)? No11) Difference Between Proposal and Final Version: The following changes were made in response to comments received during the first notice or public comment period:

1. In line 377 after "46" add "/75".

2. In line 380 after "[210 ILCS 5]" add "[formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 3-1, 9-11, 9-27, 9-31, 9-32, and 9-33]".

3. In line 382 after "1961" add "[formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 10-1, 10-2, 10-5, and 10-11]".

4. In line 384 after "1961" add "[formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 10-3, 10-3.1, and 10-4]".

5. In line 387 after "1961" add "[formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, and 12-4.7]".

6. In line 389 after "1961" add "[formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 12-13, 12-14, 12-15, and 12-16]".

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7. In line 391 after "1961" add "[formerly Ill. Rev. Stat. 1991, Ch. 38, par. 12-19]".

8. In line 393 after "1961" add "[formerly Ill. Rev. Stat. 1991, Ch. 38, par. 12-21]".

9. In line 396 after "1961" add "[formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 16-1, 16-1.3, 16-1.3, 18-1, 18-2, 19-1 and 19-3]".

10. In line 398 after "1961" add "[formerly Ill. Rev. Stat. 1991, Ch. 38, par. 19-4]".

11. In line 400 after "1961" add "[formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 20-1 and 20-1.1]".

12. In line 402 after "1961" add "[formerly Ill. Rev. Stat. 1991, Ch. 38, pars. 24-1 and 24-1.2]".

13. In line 405 after "and 91" add "[formerly Ill. Rev. Stat. 1991, Ch. 38, 1/2, pars. 705, 705.1, and 709]".

14. In line 409 after "and 407.11" add "[formerly Ill. Rev. Stat. 1991, Ch. 38, 1/2, pars. 1401, 1401.1, 1403, 1405, 1405.1, 1407, and 1407.11]".

15. In lines 415 and 416 delete "(1)" and insert "and (1)" after "(1)".

16. In line 419 capitalize the "a" in "applicant".

17. In line 422 capitalize the "c" in "conditional".

18. In line 433 delete "(1)" and insert "(a)".

21. After line 447 add the following:

f) The agency may accept an authentic OCRA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsections (d) or (e) of this Section.

22. In line 448 delete "f)" and insert "1)".

23. In line 449 underline the text after "as".

24. In line 449 change the second "of" to "or".

25. In line 452 before "OCRA" add "non-fingerprint-based".

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26. In line 458 delete "(1)" and insert "(1)".
27. In line 460 before "Criminal" add "non-fingerprint-based".
28. In line 466 delete "(b)" and insert "(1)".
29. In lines 467 and 468 delete "(i) and" and insert: "and (k)" after "(1)".
30. In line 470 before "Criminal" add "non-fingerprint-based".
31. In line 474 delete "(b)" and insert "(1)".
32. In line 476 delete "(1) and" and insert "and (k)" after "(1)".
33. In line 482 delete "(b)" and insert "(1)".
34. In line 483 delete "(1) and" and insert "and (k)" after "(1)".
35. In line 485 delete "(1)" and insert "(b)".
36. In line 489 delete "(b)" and insert "(1)".
37. In line 489 insert "non-fingerprint-based" before "UCIA".
38. In line 496 delete "(1)" and insert "(1)".
39. In line 500 delete "INFORMATION NECESSARY TO INITIATE A" and insert "A completed".
40. In line 501 delete "IN A FORM AND MANNER PRESCRIBED BY THE" and insert "FORM".
41. In line 502 delete "DEPARTMENT OF STATE POLICE".
42. In line 503 insert "(which the Department will forward to the Illinois State Police)" before: "and".
43. In line 504 delete "or" and insert "and" after "check"; add "or facility check" after "order".
44. In line 507 delete "(1)" and insert "(k)".
45. In line 516 delete "and".
46. After line 516 add "(3) NURSE AIDE REGISTRY RECORDS; AND".
47. In line 517 delete "(3)" and add "(2)".

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48. In line 522 delete "(k)" and add "(1)".
 49. In line 526 delete "(1)" and add "(m)".
 50. In line 534 delete "(m)" and add "(n)".
 51. In line 536 before "act" add "Health Care Worker Background Check".
 52. In line 536 after "(act)" add: "The facility shall include the individual's Social Security number on the criminal history record check results."
 53. In line 537 delete "(n)" and add "(o)".
 54. In line 539 after "aides" add "who are on the Department's Nurse Aide Registry".
 55. After line 542 add:
 E) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.
 56. Each time they appear, lowercase "Criminal History Record Check", "Criminal Records Report", and "Criminal History Record".
- The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:
1. In lines 323, 327 and 330, strike the period before the opening parenthesis and add a semicolon at the end.
 2. In line 334, add a period at the end.
 3. In line 380, after "5" add "(9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3)".
 4. In line 458, add "(c)" after "Section 30".
 5. In line 461, add "(d)" after "Section 30".
 6. In line 506, add "(e) and (f)" after "Section 30".
 7. In line 509, add "(g)" after "Section 30".
 8. In line 524, add "(a)" after "Section 10".
 9. In line 540, add a semicolon at the end.

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10. In line 546, add "(b)" after "Section 40".

In addition, various typographical, grammatical, and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? The Department has made all the changes to which it agreed with the Joint Committee.

- 13) Will the Rules Replace an Emergency Rule Currently in Effect? No

- 14) Are there any other Amendments Pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
300.330	Amendments	19 Ill. Reg. 14703
300.660	Amendments	19 Ill. Reg. 14703
300.680	Amendments	19 Ill. Reg. 14703
300.684	New Section	19 Ill. Reg. 14703
300.686	New Section	19 Ill. Reg. 14703
300.686	Repealer	19 Ill. Reg. 14703
300.1040	Amendments	19 Ill. Reg. 14703
300.1210	Amendments	19 Ill. Reg. 14703
300.1620	Amendments	19 Ill. Reg. 14703
Appendix F	New Section	19 Ill. Reg. 14703

- 15) Summary and Purpose of Rules:

The rules in Part 300 establish requirements for the licensure of skilled nursing and intermediate care facilities in Illinois. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 300.660 is amended to include new requirements for nursing assistants under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out whether the individual has a current background check. Provisions concerning placement of a nursing assistant on the Registry are deleted, since a new Section 300.663 is being added to specify and clarify Registry requirements.

Section 300.661 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing individuals who have been convicted of certain offenses prior to January 1, 1997, if the individual has been convicted of committing or

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attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for direct care position. Subsection (e) sets out the requirements for facilities to also request subsection (e)(1) record check for residents. Facilities are also required to request a record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (m). A new subsection (f) added at second notice allows a facility to accept a UCIA background check conducted within the last 12 months. Notification requirements to the applicant or employee are set forth in subsection (g). Subsection (h) contains a provision for conditional employment, and subsection (i) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (j), an applicant, employer, or employer may request a waiver to the employment prohibitions contained in subsections (a) and (b), in mitigating circumstances under which the applicant, employer, or employer can demonstrate that the individual has no Department-sanctioned criminal record. Facilities are not obligated to employ applicants who are granted waivers. Subsection (l) sets out the requirements for facilities to send a copy of the results of the background check and the individual's Social Security number to the State nurse aide registry. Requirements for retention of records are set forth in subsections (o) and (p).

Section 300.663 is added to set forth requirements for placement on the Nurse Aide Registry, including meeting background check requirements under Section 300.661.

- 16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Ms. Gail DeVito
Division of Governmental Affairs
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 300

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
300.110	General Requirements
300.112	Application for License
300.113	License
300.114	Renewal of an Initial License for a New Facility
300.115	Issuance of an Initial License Due to a Change of Ownership
300.116	Issuance of a Renewal License
300.117	Criteria for Adverse License Actions
300.118	Denial of Initial License
300.119	Denial of Renewal of License
300.120	Revocation of License
300.121	Experimental Program Conflicting With Requirements
300.122	Inspections, Surveys, Evaluations and Consultation
300.123	Filing an Annual Attested Financial Statement
300.124	Information to Be Made Available to the Public By the Department
300.125	Information to Be Made Available to the Public By the Licensee
300.126	Municipal Licensing
300.127	Ownership Disclosure
300.128	Issuance of Conditional Licenses
300.129	Monitor and Receivership
300.130	Presentation of Findings
300.131	Determination to Issue a Notice of Violation or Administrative
300.132	Warning
300.133	Denial of the Level of a Violation
300.134	Notice of Violation
300.135	Administrative Warning
300.136	Plans of Correction
300.137	Reports of Correction
300.138	Conditions for Assessment of Penalties
300.139	Calculation of Penalties
300.140	Determination to Assess Penalties
300.141	Reduction or Waiver of Penalties
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SUBPART F: NURSING AND PERSONAL CARE

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300.2810 Applicability of These Standards
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300.2830 Preparation of Drawings and Specifications
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300.3030 Preparation of Drawings and Specifications
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16927, effective October 1, 1987; amended at 12 Ill. Reg. 1032, effective December 24, 1987; amended at 12 Ill. Reg. 1681, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 954, effective January 1, 1991; amended at 16 Ill. Reg. 881, effective January 1, 1992; amended at 17 Ill. Reg. 591, effective March 27, 1992; amended at 18 Ill. Reg. 10789, effective November 3, 1992; for a maximum of 150 days; emergency expired on July 3, 1993; emergency expired at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1391, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendments at 20 Ill. Reg. 567, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10148, effective **JUL 15 1996**.

SUBPART C: POLICIES

Section 300.660 Nursing Assistants

a) A facility shall not employ an individual as a nurse aide unless the facility has inquired of the Department as to information in the Registry concerning the individual. (Section 3-206.01 of the Act) The Department shall advise the inquirer if the individual is on the Registry, if the individual has findings of abuse, neglect, or misappropriation of property in accordance with Sections 3-206.01 and 3-206.07 of the Act, and if the individual has a current background check. (See Section 300.661 of this Part)

b) Each of the facility's nursing assistants shall comply with one of the following conditions no later than 45 days after the date of initial employment:

- 1) Provide documentation of registration on the Department's Nurse Aide Registry;
- 2) Enroll in a Department approved Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395). The program course-work and the competency evaluations, both written and manual, which shall be successfully completed no later than 120 days after the date of initial employment. Programs approved in accordance with 77 Ill. Adm. Code 395.150(a)(2) may last longer than 120 days. However, a nursing assistant may be employed no more than 120 days prior to the successful completion of the program course

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- work and the competency evaluations.
- 3) Submit documentation to the Department in accordance with Section 300.663 of this Part to be registered on the Nurse Aide Registry. Provide documentation of current registration from another state indicating that the requirements of 42 CFR 483.151-154 have been met; and that there are no documented findings of abuse, neglect, or misappropriation of property.
 - 4) Provide documentation of successful completion of a nursing arts course in an accredited nurse training program as evidenced by a diploma, certificate of other training, verification from the school, or successful completion of the Department-approved written examination of the Department-approved completion of a United States Military Training Program that includes the content of the Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395) as evidenced by a diploma, certificate of other training, verification, and successful completion of the written portion of the Department-approved nursing assistant competency evaluation.
 - 5) Each person employed by the facility as a nursing assistant shall meet each of the following requirements:
 - 1) Be at least sixteen years of age, of temperate habits and good moral character, honest, reliable and trustworthy (Section 3-206 (a)(1) of the Act);
 - 2) Be able to speak and understand the English language or a language understood by a substantial percentage of the facility's patients (Section 3-206(a)(2) of the Act);
 - 3) Provide evidence of good moral character, if any, and residence for two years prior to present initial employment as a nursing assistant (Section 3-206(a)(3) of the Act);
 - 4) Have completed at least eight years of grade school or provide proof of equivalent knowledge (Section 3-206(a)(4) of the Act).

d) The facility shall certify that each nursing assistant employed by the facility meets the requirements of this Section. Such certification shall be retained by the facility as part of the employee's personnel record. (Section 3-206(d) and (e) of the Act)

e) During inspections of the facility, the Department may require nursing aides assistants to demonstrate competency in the principles, techniques, and procedures covered by the basic nursing assistant training program curriculum described in the rules governing training standards for nursing assistants. The Department may observe nursing assistants or other evidences of inadequate training are observed. The State approved manual skills competency evaluation testing format and forms will be used to determine competency of a nursing assistant when appropriate. Failure to demonstrate competency of the principles, techniques and procedures shall result in the provision of in-service training to the individual by the facility. The in-service

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for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act) No later than January 1, 1997, a facility must initiate a UCIA criminal history record check for all employees who are hired before January 1, 1997, and who are not exempt because of subsection (d) of this Section with duties that involve direct care for residents. (Section 31(d) of the Health Care Worker Background Check Act)

The agency may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsections (c) or (e) of this Section.

9) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint UCIA criminal history record search is made:

- 1) That the facility shall request a non-fingerprint-based UCIA Background Check Act record check pursuant to the Health Care Worker Background Check Act.
- 2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (i) of this Section.
- 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee check a waiver pursuant to subsections (j) and (k) of this Section.
- 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j) and (k) of this Section.
- 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections

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(a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j) and (k) of this Section.

3) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(d) of the Health Care Worker Background Check Act)

4) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates the conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section may request the facility to commence a fingerprint UCIA criminal records check by submitting information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

5) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following to the Department within 10 days after the receipt of the criminal records report:

- 1) A completed fingerprint-based UCIA criminal records check form (Section 36(a) of the Health Care Worker Background Check Act) which the Department will forward to the Illinois State Police; and
 - 2) Certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- 6) The department may grant a waiver based on mitigating circumstances, which may include:
- 1) The age at which the crime was committed;
 - 2) The circumstances surrounding the crime;
 - 3) The length of time since the conviction;
 - 4) The applicant's or employee's criminal history since the conviction;
 - 5) The applicant's or employee's work history;
 - 6) The applicant's or employee's current employment references;
 - 7) The applicant's or employee's character references;
 - 8) Nurse Aide Registry records; and
 - 9) Other evidence demonstrating the ability of the applicant or employee to perform the applicant responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)
- 7) A facility is not obligated to employ or offer permanent employment to an applicant or retain an employee who is granted a waiver. (Section 40(d) of the Health Care Worker Background Check Act)
- 8) This Section shall not apply to:
- 1) An individual who is licensed by the Department of Professional

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*Regulation of the Department of Public Health under another law,
or*

- 2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State, Section 40 of the Health Care Worker Background Check Act, shall be subject to a criminal background check by the Department. The facility must send a copy of the results of the UCR criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 10(b) of the Health Care Worker Background Check Act). The facility shall include the individual's Social Security number on the criminal history record check results.*
- 3) *The facility shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nurse aides who are on the Department's Nurse Aide Registry. The file shall be subject to inspection by the Department. A fine of \$100 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)*
- 4) *The facility shall maintain a copy of the employee's criminal history record check results on file for 5 years. The facility shall maintain the personnel file or other source location accessible to the Department.*

(Source: Added at 20 Ill. Reg. 10142, effective JUL 15 1996)

Section 300.663. Registry of Certified Nurse Aides

- a) *An individual will be placed on the Nurse Aide Registry when he/she has successfully completed a training program approved in accordance with the Long-Term Care Assistants and Aides Training Program Code 177 Ill. Adm. Code 393) and has met background check information required in Section 300.661 of this Part, and when there are no findings of abuse, neglect, or misappropriation of property in accordance with Section 300.661 of this Part, and when there are no documented findings of abuse, neglect, or misappropriation of property in accordance with Section 300.661 of this Part and submits documentation supporting one of the following equivalencies:*

1) *Documentation of current registration from another state indicating that the requirements of 42 CFR 483.151 - 483.154 (October 1, 1994, no further amendments or editions included) have been met and that there are no documented findings of abuse, neglect, or misappropriation of property.*

2) *Documentation of successful completion of a nursing arts course with at least 40 hours of supervised clinical experience in an accredited nurse training program as evidenced by a diploma, certificate or other written verification from the school and successful completion of the Department established nursing*

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- 2) *Documentation of successful completion of a United States military training program that includes the content of the Basic Nursing Assistant Training Program revised clinical experience 392 Ill. Adm. Code 393) and has met background check information required in Section 300.661 of this Part, and when there are no findings of abuse, neglect, or misappropriation of property in accordance with Section 300.661 of this Part, and when there are no documented findings of abuse, neglect, or misappropriation of property in accordance with Section 300.661 of this Part and submits documentation supporting one of the following equivalencies:*

(Source: Added at 20 Ill. Reg. 10143, effective JUL 15 1996)

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1) Heading of the Part: Advisory Councils

2) Code Citation: 89 Ill. Adm. Code 515

3) Section Numbers: Adopted Action:
515.500 Amended

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2105/3], and Sections 6.23 and 8 of the Civil Administrative Code of Illinois [20 ILCS 5/6.23 and 8]; and the Bureau for the Blind Act [20 ILCS 2410]; and Section 6 of the Head and Spinal Cord Injury Act (410 ILCS 515/6).

5) Effective Date of Rulemaking: July 16, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: July 16, 1996

9) Notice of Proposal Published in Illinois Register: February 13, 1996, 20 Ill. Reg. 3474

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: None.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Section 515.500 deals with the Blind Services Planning Council and how the members are selected. The attached draft of the rules is intended to clarify the procedures that are required to be followed to constitute a quorum at a meeting of the Blind Services Planning Council.

16) Information and questions regarding this adopted amendment shall be directed to:

Name: Ms. Susan Warner, Manager
Address: Regulations and Procedures Division
Department of Rehabilitation Services
P.O. Box 19429

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED AMENDMENTS

Springfield, Illinois 62794-9429

Telephone: (217) 785-9301

TTY: (217) 785-9301

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER A: GENERAL PROGRAM PROVISIONS

PART 515

ADVISORY COUNCILS

SUBPART A: REHABILITATION SERVICES ADVISORY COUNCIL

Section

515-100 Rehabilitation Services Advisory Council
515-110 Powers and Duties
515-120 Composition
515-130 Membership
515-140 Terms of Membership
515-150 General Provisions

SUBPART B: CONSUMER ADVISORY COUNCILS

Section

515-200 Consumer Advisory Councils

SUBPART C: FACILITY ADVISORY COUNCILS

Section

515-300 Facility Advisory Councils

SUBPART D: STATEWIDE INDEPENDENT LIVING COUNCIL

Section

515-400 Statewide Independent Living Council
515-410 Composition
515-420 Meetings
515-430 Membership Terms
515-440 Powers and Duties
515-450 General Provisions

SUBPART E: BLIND SERVICES PLANNING COUNCIL

Section

515-500 Blind Services Planning Council

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act (20 ILCS 2405/3); and Sections 6.21 and 8 of the Civil Administrative Code of Illinois (20 ILCS 5/6.23 and 8); and the Bureau for the Blind Act (20 ILCS 2410); and Section 6 of the Head and Spinal Cord Injury Act (410 ILCS 515/6).

SOURCE: Adopted and codified at 7 Ill. Reg. 8127, effective June 24, 1985; amended at 8 Ill. Reg. 1975, effective February 1, 1984; amended at 12 Ill.

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Reg. 17942, effective October 24, 1988; amended at 15 Ill. Reg. 7211, effective April 26, 1991; emergency amendments at 17 Ill. Reg. 11589, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20278, effective November 15, 1993; amended at 18 Ill. Reg. 11623, effective July 7, 1994; amended at 20 Ill. Reg. **10162**, effective **JUL 16 1995**.

SUBPART B: BLIND SERVICES PLANNING COUNCIL

Section 515-500 Blind Services Planning Council

- a) The Blind Services Planning Council (BSPC) shall review the actions of the Board of Directors and the Board of Trustees and shall provide recommendations to the Board of Directors on services to persons who are blind (Section 7 of the Bureau for the Blind Act) (20 ILCS 2410/7) (11/1/88-Reg. 7211-1991-Reg. 20278-1993-Reg. 11623-1994-Reg. 10162-1995).
- b) The BSPC shall be composed of 11 members appointed by the Governor.
 - 1) No fewer than 6 members shall be blind.
 - 2) A relative balance between the number of males and females shall be maintained.
 - 3) Two members shall be sought from each of the major statewide consumer organizations of the blind.
 - 4) One member shall be from a specific service area (e.g., Chicago Lighthouse employee, Vending Facility operator, employers of blind individuals).
 - 5) BSCS employees cannot be a member.
 - 6) The Bureau for the Blind Act (20 ILCS 2410/7) shall be amended to read:

- c) Members shall be reimbursed for actual, necessary and reasonable expenses (e.g., travel for meetings in accordance with State travel regulations (40 Ill. Adm. Code 2900), postage or telephone bills for BSPC business) incurred in the performance of their duties.
- d) Members shall be removed for cause including demonstrated incompetence, unethical behavior and unwillingness or inability to serve.
- e) Terms of Membership
 - 1) Members serving on the BSPC on the effective date of this Subpart shall continue to serve until their terms expire. New members appointed shall serve terms as set out in subsection (e)(2) of this Section.
 - 2) The first four members shall serve for one year; four members shall serve for two years; and three members shall serve for three years. All subsequent terms shall be for three years.
 - 3) No member shall serve more than 2 consecutive terms.
 - 4) The membership year for the BSPC shall be the same as the calendar year.

- f) BSCS shall provide support services (meeting space, clerical service, record storage, supplies, postage) as requested by BSPC, and access to reports, records and information unless prohibited by 89 Ill. Adm.

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Motor Fuel Tax

2) Code Citation: 96 Ill. Adm. Code 500

3) Section Numbers: Adopted Action:
500.325 Amendment

4) Statutory Authority: 35 ILCS 505

5) Effective Date of Amendment(s): July 16, 1996

6) Does this rulemaking contain an automatic renewal date? No

7) Does this amendment contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: July 16, 1996

9) Notice of Proposal Published in Illinois Register: April 5, 1996, 20 Ill. Reg. 5311

10) Has JCAP issued a Statement of Objections to these Amendments? No

11) Differences between Proposal and final version: In line 83, changed "amendments" to "amendment".

12) Have all the changes agreed upon by the agency and JCAP been made as indicated in the agreement letter issued by JCAP? Yes

13) Will this amendment replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment(s): Amends the Motor Fuel Tax regulations by providing that in the case of a carrier using independent contractors under long-term leases (30 days or more), in the absence of a written agreement or contract designating which party (the lessor or lessee) will report and pay fuel use tax, or if the document is silent regarding responsibility for reporting and paying fuel use tax, the lessee will be responsible for reporting and paying fuel use tax.

16) Information and questions regarding this adopted amendment shall be directed to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6996

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

CHAPTER 1: DEPARTMENT OF REVENUE
PART 500
MOTOR FUEL TAX

SUBPART A: DEFINITIONS

Section
500.100 Definitions
500.101 Definition of Receiver (Repealed)
500.102 Definition of Loss (Repealed)

SUBPART B: MOTOR FUEL TAX

Section
500.200 Basis and Rate of the Motor Fuel Tax
500.201 Basis and Rate of Tax Payable by Receivers
500.202 Monthly Returns
500.203 Report of Loss of Motor Fuel
500.204 Daily Gallonage Record
500.210 Documentation of Tax-free Sales of Motor Fuel Made by Licensed Distributors and Suppliers
500.215 Documentation of Tax-free Sales of Fuel Made by Licensed Receivers
500.220 Vehicles of Distributors Transporting Petroleum Products (Repealed)
500.225 Other Vehicles (Repealed)
500.230 Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers
500.235 Claims for Refund - Invoices
500.240 Sales of Special Fuel Variation in Usage
500.245 Estimated Claims for Refund
500.250 Detailed Assessments
500.255 Revocation of License, Etc. - Notice - Hearing
500.260 Distributors' Claims for Credit
500.270 Receivers' Claims for Credit
500.275 Procedure When Tax-Paid Motor Fuel is Returned to Licensee for Credit
500.280 Sales of Motor Fuel to Municipal Corporations Owning and Operating Local Transportation Systems
500.285 Sales of Motor Fuel to Certain Privately-Owned Public Utilities Owning and Operating Transportation Systems in Metropolitan Areas
500.290 When Purchaser's License Number with Department on Invoices Covering Sales of Special Fuel is Required (Repealed)
500.295 Cost of Collection - Determination (Repealed)

DEPARTMENT OF REVENUE

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SUBPART C: MOTOR FUEL USE TAX

Section
500.300 Licenses
500.301 Special Motor Fuel Permits and Decals (Repealed)
500.302 Motor Carrier's Quarterly Report (Repealed)
500.305 Licenses and Decals
500.310 Display of License and Decals
500.315 Renewal of License and Licenses
500.320 Single Trip Permits
500.325 License of Lessors and Lessees
500.330 Cancellation of License
500.335 Quarterly Payment and Reporting
500.340 Credits and Refunds
500.345 Records Requirements
500.350 Revocation
500.355 Protest Procedures
500.360 Audits

SUBPART D: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
500.400 General Information
500.405 Due Date That Falls on Saturday, Sunday or a Holiday

SUBPART E: GENERAL REQUIREMENTS APPLICABLE TO ALL LICENSES AND PERMITS ISSUED UNDER THE MOTOR FUEL TAX LAW

Section
500.500 Licenses and Permits Are Not Transferable
500.501 Blenders' Permits Are Not Transferable (Repealed)
500.505 Changes of Corporate Officers

SUBPART F: INCORPORATION BY REFERENCE OF RETAILERS' OCCUPATION TAX

Section
500.600 Incorporation of the Retailers' Occupation Tax Regulations by Reference

AUTHORITY: Implementing the Motor Fuel Tax Law [35 ILCS 505] and authorized by Section 39b2 of the Civil Administrative Code of Illinois [20 ILCS 2305/39b2].

SOURCE: Adopted July 3, 1931; amended at 2 Ill. Reg. 1, p. 97, effective December 31, 1979; amended at 3 Ill. Reg. 13, p. 98, effective June 25, 1979; amended at 4 Ill. Reg. 28, p. 566, effective June 1, 1980; codified at 8 Ill.

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Reg. 8612; amended at 10 Ill. Reg. 4510, effective February 28, 1986; amended at 9 Ill. Reg. 4029, effective May 15, 1987; emergency amendment at 13 Ill. Reg. 1321, effective January 1, 1988; amended at 10 Ill. Reg. 4007, effective January 4, 1990; amended at 14 Ill. Reg. 6826, effective April 19, 1990; amended at 15 Ill. Reg. 4305, effective April 16, 1991; amended at 15 Ill. Reg. 15358, effective August 30, 1991; recodified at 18 Ill. Reg. 4431; amended at 19 Ill. Reg. 3008, effective February 28, 1995; amended at 19 Ill. Reg. 1719, effective December 18, 1995; amended at 20 Ill. Reg. 10168, effective JUL 16 1996.

SUBPART C: MOTOR FUEL USE TAX

Section 500.325 Licensure of Lessors and Lessees

- a) A lessor regularly engaged in the business of leasing or renting motor vehicles without drivers for compensation to licensees of other states may be deemed to be the licensee, and such lessor may be issued a license if an application has been properly filed and approved by the base jurisdiction.
- b) In the case of a carrier using independent contractors under long-term leases (more than 30 days), the lessor and lessee will be given the option of designating which party will report and pay fuel use tax. In the absence of a written agreement of contract, or if the document is silent regarding responsibility for reporting and paying fuel use tax, the lessee will be responsible for reporting and paying fuel use tax. If the lessee (carrier), through a written agreement of contract, assumes responsibility for reporting and paying motor fuel use tax, the base jurisdiction will be the base jurisdiction in which the base jurisdiction of the lessor, regardless of the jurisdiction in which the commercial motor vehicle is registered for vehicle registration purposes by the lessor.
- c) For motor vehicle leases of 30 days or less, the lessor of the motor vehicles under lease will be liable for all requirements of the motor fuel use tax program.
- d) In the case of a household goods carrier using independent contractors, agents, or service representatives, under intermittent leases, the party liable for motor fuel tax shall be:
 - 1) The lessee (carrier) when the commercial motor vehicle is being operated under the lessee's jurisdictional operating authority.
 - 2) The lessor (independent contractor, agent, or service representative) when the qualified motor vehicle is being operated under the lessor's jurisdictional operating authority. The base jurisdiction for purposes of this Part shall be the base jurisdiction of the lessor, regardless of the jurisdiction in which the commercial motor vehicle is registered for vehicle registration purposes by the lessor or lessee.

jurisdiction in which the commercial motor vehicle is registered for vehicle registration purposes by the lessor or lessee.

e) For licensees registered under the IPTA, leases shall be made available upon request of the Department or request of any member jurisdiction.

(Source: Amended at 20 Ill. Reg. 10168, effective JUL 16 1996)

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- 1) Heading of the Part: Tobacco Products Tax Act of 1995
- 2) Code Citation: 86 Ill. Adm. Code 660
- 3) Section Numbers:
660.05 Adopted Action:
660.10 New Section
660.15 New Section
660.20 New Section
660.25 New Section
660.30 New Section
660.35 New Section
- 4) Statutory Authority: 35 ILCS 143
- 5) Effective Date of Amendment(s): July 16, 1996
- 6) Does this rulemaking contain an automatic renewal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: July 16, 1996
- 9) Notice of Proposal Published in Illinois Register: April 5, 1996, 20 Ill. Reg. 3517
- 10) Has JCAR issued a Statement of Objections to these Amendments? No
- 11) Differences between proposal and final version:

1. Deleted underscoring because this is a new Part.
2. In line 46, deleted "or".
3. In line 54, capped "sales".
4. In lines 65 and 76, removed comma after "person".
5. In lines 111 and 112, added commas.
6. In line 136, capped "certificate of resale".
7. In lines 162 and 163, deleted commas.
8. In line 219, added "a" and changed "penal institutions" to "penal institution".
9. In line 270, deleted "or not".

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment(s): Public Act 89-21, effective June 6, 1995, amended the Tobacco Products Tax Act of 1995. The Tobacco Products Tax Act of 1995 imposes a tax upon any person engaged in the business as a distributor of tobacco products. This rulemaking contains provisions concerning, inter alia, the nature and rate of the tax, general definitions, licenses, and returns.
- 16) Information and questions regarding this adopted amendment shall be directed to:
Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, IL 62794
(217) 782-6996

The full text of the Adopted Amendment begins on the next page:

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TITLE 86: REVENUE

CHAPTER 1: DEPARTMENT OF REVENUE

PART 660

TOBACCO PRODUCTS TAX ACT OF 1995

Section	Nature and Rate of Tobacco Products Tax
660.05	General Definitions
660.10	Licenses
660.15	Returns
660.20	Recorded Records
660.25	Exempt Sales
660.30	Exempt Sales
660.35	Claims For Credit

AUTHORITY: Implementing the Tobacco Products Tax Act of 1995 [35 ILCS 143] and authorized by Section 39b19 of the Civil Administrative Code of Illinois [20 ILCS 250/39b19].

SOURCE: Adopted at 20 Ill. Reg. 10174 effective JUL 14 1995.

Section 660.05 Nature and Rate of Tobacco Products Tax

- The Tobacco Products Tax is imposed upon the last distributor, as defined in Section 660.10, who sells tobacco products to a retailer or consumer in Illinois at the rate of 1% of the wholesale price of tobacco products sold or otherwise disposed of in this State.
- The tax is in addition to all other occupation or privilege taxes imposed by the State of Illinois, by any political subdivision thereof, or by any municipal corporation. (Section 10-10 of the Act)

Section 660.10 General Definitions

"Act" means the Tobacco Products Tax Act of 1995.

"Distributor" means any of the following:

Any manufacturer or wholesaler in this State engaged in the business of selling tobacco products who sells, exchanges, or distributes tobacco products to retailers or consumers in this State.

Any manufacturer or wholesaler located outside of Illinois engaged in the business of selling tobacco products who sells, exchanges, distributes, ships, or transports tobacco products to retailers or consumers in this State, so long as that

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manufacturer or wholesaler has or maintains within this State, directly or by subsidiary, an office, sales house, or other place of business, or any agent or other representative operating within this State under the authority of the person or subsidiary, irrespective of whether the place of business or agent or other representative is located here permanently or temporarily.

Any retailer who receives tobacco products on which the tax has not been or will not be paid by a distributor. (Section 10-5 of the Act) Such retailers may include the following:

A retailer who purchases tobacco products for delivery outside of Illinois. Such retailer may elect to register with the Department thereby enabling him or her to provide his or her distributors with a blanket Certificate of Resale. See Section 660.30(f) (Exempt Sales). The retailer must then report and pay tax on those tobacco products he or she sells in Illinois. If the retailer is able to calculate the percentage of tobacco products that he or she will sell to consumers, such retailer may pay his or her supplier for those taxable sales.

A retailer who purchases from an out-of-State distributor, which means a distributor in Illinois who has no office or place of business in this State. This retailer must therefore register with the Department and remit tax on sales to Illinois consumers.

Distributor does not include any person who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. (Section 10-5 of the Act) A Correctional Industries program is a program that employs committed persons confined in institutions and facilities of the Illinois Department of Corrections to make, manufacture, or fabricate tobacco products for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility.

"Manufacturer" means any person who manufactures and sells tobacco products, except a person who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. (Section 10-5 of the Act)

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"Retailer" means any person in this State engaged in the business of selling tobacco products to consumers in this State, regardless of quantity or number of sales. (Section 10-5 of the Act)

"Sale" means any transfer, exchange, or barter in any manner or by any means whatsoever for a consideration and includes all sales made by persons. (Section 10-5 of the Act)

"Tobacco products" means any cigars; cheroots; stogies; perinuos; granulated plug cut; crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweeping of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not include cigarettes or tobacco purchased for the manufacture of cigarettes by cigarette distributors and manufacturers defined in the Cigarette Tax Act and persons who make, manufacture, or fabricate cigarettes as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. (Section 10-5 of the Act)

"Wholesale price" means the established list price for which a manufacturer sells tobacco products to a distributor, before the allowance of any discount, trade allowance, rebate, or other reduction. In the absence of such an established list price, the manufacturer's invoice price at which the manufacturer sells the tobacco product to unaffiliated distributors, before any discounts, trade allowances, rebates, or other reductions, shall be presumed to be the wholesale price. (Section 10-5 of the Act) The wholesale price of tobacco products is the established list price at the time of purchase, by the distributor who remits tax to the Department, of such tobacco products.

"Wholesaler" means any person who is engaged solely in making sales of tobacco products to others for resale or sales that are otherwise exempt from tax.

Section 660.15 Licenses

- a) It shall be unlawful for any person to engage in business as a distributor of tobacco products in this State within the meaning of the Act without first having obtained a license to do so from the Department. (Section 10-20 of the Act) Application for a distributor's license shall be made to the Department in form as furnished and prescribed by the Department and shall be accompanied by a joint and several bond in an amount fixed by the Department. Each licensed place of business shall be covered by a separate license.

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- b) The Department may, in its discretion, upon application, issue licenses authorizing the payment of the tax imposed by the Act by any distributor or manufacturer not otherwise subject to the tax imposed under this Act who, to the satisfaction of the Department, furnishes adequate security to ensure payment of the tax.

- c) Wholesalers that are not registered and licensed as distributors with the Department but claim to only sell tobacco products in such a way that the Department is not required to issue them a license (i.e., exempt purchases) are advised to apply to the Department for a resale number so that such wholesalers are able to provide distributors with Certificates of Resale when purchasing the tobacco products that will be resold. Such wholesalers need not file returns with the Department.

Section 660.20 Returns

- a) Every distributor of tobacco products shall, on or before the 15th day of each calendar month, file a return with the Department covering the preceding calendar month disclosing the following (Section 10-20 of the Act):

- 1) The wholesale price for tobacco products manufactured and then sold to the wholesaler reported on the return.
- 2) The wholesale price for tobacco products purchased and then sold or otherwise disposed of.
- 3) The total cost of all tobacco products sold or otherwise disposed of.
- 4) Deductions authorized by law.
- 5) Tobacco products tax base.
- 6) Total tax.

- b) Such return shall be filed upon forms furnished and prescribed by the Department. Payment of the tax in the amount disclosed by the return shall accompany the return.

- c) Tobacco products "otherwise disposed of" include samples of tobacco products. Transfers of tobacco products between divisions of a corporation that have separate Illinois Business Tax numbers are required to be reported as sales under "otherwise disposed of."

Section 660.25 Books and Records

- a) Every distributor of tobacco products who is required to procure a license under the Act shall keep within Illinois, at his or her licensed address, complete and accurate records of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the State, and sold or otherwise disposed of, and shall preserve and keep within Illinois at his or her licensed address all of the following:

- 1) Invoices.
- 2) Bills of lading.

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- 3) Sales records.
- 4) Copies of bills of sale.
- 5) The wholesale price for tobacco products sold or otherwise disposed of.
- 6) An inventory of tobacco products prepared as of December 31 of each year or as of the last day of the distributor's fiscal year if he or she files Federal income tax returns on the basis of a fiscal year.
- 7) Other pertinent papers and documents relating to the manufacture, purchase, sale, or disposition of tobacco products.
- b) All books and records and other papers and documents that are required by the Act to be kept shall be kept in the English language, and shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.
- c) Such books, records, papers, and documents shall be preserved for the period during which the Department is authorized to issue Notices of Tax Liability, which is generally for a maximum of 3 1/2 years.

Section 660.30 Exempt Sales

- a) Sales of tobacco products by distributors or wholesalers who will not be prohibited from selling tobacco products to consumers shall be exempt from the tax imposed by this Act. For example, a wholesaler who sells tobacco products to a distributor as sales for resale are exempt from the tax imposed by this Act. Sales of tobacco products to retailers or consumers are not exempt sales (unless the retailer is a registered distributor; see subsection (f)).
- b) The tax is not imposed upon any activity in the business as a distributor in interstate commerce or otherwise, to the extent to which that activity may not, under the Constitution and Statutes of the United States, be made the subject of taxation by this State. (Section 10-10 of the Act) Sales of tobacco products delivered by a distributor to persons located outside of Illinois are exempt from the tax imposed by this Act.
- c) Sales of tobacco products to retailers who will deliver the tobacco products outside of Illinois are exempt.
- d) Tobacco products shall not apply to sales or other disposition of tobacco products to the United States Government or any agency thereof. For instance, sales of tobacco products to U.S. Veterans' Hospitals and U.S. Military Personnel through officially recognized agencies physically located at military bases are exempt from the tax imposed by this Act.
- e) The tax imposed shall not apply to sales of tobacco products to penal institutions for use in a Correctional Industries program that makes, manufactures, or fabricates tobacco products for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. However, sales of tobacco products

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- to a penal institution that will sell tobacco products through its commissary are taxable.
- f) Under certain circumstances, a blanket Certificate of Resale may be provided by a purchaser to a distributor. These circumstances include the following: who purchase tobacco products for delivery outside of Illinois are exempt under subsection (c) above. However, when such a retailer may deliver tobacco products outside of Illinois but may deliver some within Illinois and where it is impracticable, at the time of purchasing the tobacco products, for the retailer to determine in which way he or she will dispose of the tobacco products, the retailer may certify to the distributor that he or she is buying all of such tobacco products for resale and provide a blanket Certificate of Resale to the distributor. A retailer may provide such a certificate only if he or she is registered as a distributor under the Act and agrees to assume responsibility for reporting and remitting tax on his or her taxable Illinois sales (e.g., sales to consumers or retailers).
- g) Often times, a distributor registered under this Act will also sell tobacco products to consumers. This distributor may seek to avoid the tax imposed by this Act on the sale of tobacco products, to determine in which way he or she will dispose of the tobacco products. Consequently, the distributor may provide the selling distributor with a blanket Certificate of Resale and assume responsibility for reporting and remitting tax on his or her taxable sales to consumers.
- h) A distributor making an exempt sale of tobacco products shall document this exemption by obtaining a certification from the purchaser containing the distributor's name and address, the purchaser's name and address, the date of purchase, the purchaser's signature, the purchaser's tobacco products tax license number, if applicable, and a statement that the purchaser is purchasing for sale other than at retail or is purchasing for delivery outside of Illinois or is assuming responsibility for reporting and remitting tax as provided for under subsection (f).

Section 660.35 Claims for Credit

- a) If it appears, after claim therefor filed with the Department, that an amount of tax or penalty has been paid that was not due under the Act, whether as the result of a mistake of fact or an error of law, except as hereinafter provided, then the Department shall issue a credit memorandum of refund to the person who made the erroneous payment or, if that person has died or become incompetent, to his legal representative, as such.
- b) If it is determined that the Department should issue a credit or refund under the Act, the Department will first apply the amount

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thereof against any amount of tax or penalty due under the Act from the person entitled to such credit or refund for the purpose of the credit or refund. The Department may, without issuance of the Act from such person, the Department may, without issuance of the credit or refund pending the final disposition of such proceedings and may apply such credit or refund against any amount found to be due to the Department under the Act as a result of such proceedings. The balance, if any, of the credit or refund shall be issued to the person entitled thereto.

c) If no tax or penalty is due and no proceeding is pending to determine whether such taxpayer is indebted to the Department for tax or penalty, the credit memorandum or refund shall be issued to the claimant; or (in the case of a credit memorandum) the credit memorandum shall be issued to the taxpayer. The Department shall be subject to reasonable rules of the Department to any other person who is subject to the Act, and the amount thereof shall be applied by the Department against any tax or penalty due or to become due under the Act from such assignee.

d) As to any claim filed hereunder with the Department on and after each January 1 and July 1, no amount of tax or penalty erroneously paid (either in total or partial liquidation of a tax or penalty under the Act) more than 3 years prior to such January 1 and July 1, respectively, shall be credited or refunded.

e) In case the Department determines that the claimant is entitled to a refund, such refund shall be made only from such appropriation as may be available for such purpose. If the Department determines that the appropriated would permit anyone having a claim allowed during the period covered by such appropriation to elect to receive a cash refund, the Department will make such refunds only in hardship cases (i.e., in cases in which the claimant cannot use a credit memorandum). The two most likely situations where this would be the case are the situation in which the claimant has discontinued business and the situation in which the claimant will have a small volume of liability to the Department in the foreseeable future, but receives such a large credit memorandum that it might take the claimant a long time to liquidate the memorandum by using it to pay current taxes. In these instances, the claimant probably would have to sell the credit memorandum to someone else in order to realize anything from it within any reasonable period of time.

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NOTICE OF ADOPTED AMENDMENTS(S)

- 1) Heading of the Part: Grant Program for Dependents of Correctional Officers
- 2) Code Citation: 23 Ill. Adm. Code 2731
- 3) Section numbers:
2731-10 Amended
2731-20 Repealed, New
2731-30 New
2731-40 New
2731-50 New
- 4) Statutory Authority: Implementing Section 60 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/60 and 20(f)].
- 5) Effective Date of Rule(s) Amendments: July 15, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: July 12, 1996
- 9) Notice(s) of Proposal Published in Illinois Register: March 22, 1996, 20 Ill Reg. 4572
- 10) Has JCAR issued a Statement of Objections to these rule(s)? No
- 11) Difference(s) between proposed and final version: Changes in this rulemaking were merely minor or technical in nature and were made in response to suggestions from JCAR staff.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, and to clarify issues that have arisen during the previous year. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments: A number of changes have been incorporated to implement the statutory amendments contained in P.A. 89-010 and to add new sections which parallel the codification scheme contained in other

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Parts of ISAC rules. It is important to note that many, if not most, of the provisions contained in Sections 2731.20 through 2731.50 are a codification of long-standing policies. Amendments to previous requirements that had been changed through legislative action are explained below. Section 2731.20 now includes definitions, similar to other Parts of ISAC rules. Section 2731.30 has been added and outlines the procedures to be followed as well as the eligibility criteria to be met if an applicant desires assistance through this program. Subsection (f) reflects the statutory provision that recipients need not receive a benefit at the time of application, but may receive the benefit at a later date. Subsection (g) amends previous language describing the amount of awards under this Part. A recipient attending a public institution in Illinois may receive full payment of tuition and mandatory fees, in accordance with the statute. In our efforts to maintain equity and still enable students to attend institutions of their choice, the award to a recipient at a private institution shall not exceed the grant that would be awarded to a student enrolled in a comparable program of study at a public institution. Subsection (i) specifies that benefits under this program are applicable to both undergraduate and graduate studies. Section 2731.40 has been added and includes the procedures that ISAC will follow in the administration of this program. Subsection (e) outlines how ISAC will distribute funds if the appropriation is insufficient to make awards to all eligible applicants and if priorities become necessary. Section 2731.50 has been added and describes the procedures for awarding financial assistance through this program. Subsection (b) contains institutional guidelines that apply if and when a recipient's financial aid award exceeds the cost of attendance or if there is another grant or scholarship that is intended to defray the same educational costs covered by this grant. Subsection (c) delineates the payment processing requirements, which are similar to those followed by institutions in the administration of the Monetary Award Program (MAP). (See 23 Ill. Adm. Code 2735.)

16) Information and questions regarding these adopted rules amendments shall be directed to:

Ms. Raquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission
1755 North Second Street
Deerfield, IL 60015
(847) 918-8510

The full text of the adopted rules amendments begin on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2731

GRANT PROGRAM FOR DEPENDENTS OF CORRECTIONAL OFFICERS

Section	Summary and Purpose
2731.10	Definitions
2731.20	Eligibility Procedures
2731.30	Application Procedures
2731.40	Program Procedures
2731.50	Institutional Procedures

AUTHORITY: Implementing Section 60 and authorized by Section 20(f) of the Higher Education Student Assistance Act (110 ILCS 947/60 and 20(f)).

SOURCE: Adopted at 9 Ill. Reg. 20780, effective January 1, 1986; transferred from Chapter IX, 23 Ill. Adm. Code 2731 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2731 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17853; amended at 14 Ill. Reg. 10534, effective July 1, 1990; amended at 17 Ill. Reg. 10559, effective July 1, 1993; amended at 18 Ill. Reg. 10299, effective July 1, 1994; amended at 20 Ill. Reg. **10183**, effective **JUL 15 1996**.

Section 2731.10 Summary and Purpose

a) If a Correctional Officer, correctional officer is employed by the Illinois Department of Corrections in a security position and is killed or sustains an injury resulting in a Permanent Disability at least ninety-percent attached in the line of duty, the Correctional Officer's Spouse employee-a-spouse and children children may receive grant assistance under this program, without regard to financial need Part.

b) This Part establishes Rules which govern the Correctional Officer's Grant Program for Dependents of Correctional Officers. Additional Rules and definitions are contained in the General Provisions Part at 23 Ill. Adm. Code 2700. Defined terms are indicated by the first letter being capitalized.

(Source: Amended at 20 Ill. Reg. **10183**, effective

JUL 15 1996)

Section 2731.20 Definitions Program Procedures

"Child or Children" - means any natural child, legally adopted child or child in the legal custody of the Correctional Officer at the time

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of the officer's death or Permanent Disability. Step-children are ineligible.

"Correctional Officer" - means an employee of the Illinois Department of Corrections who is assigned to the Correctional Officer Detail of the Department who has responsibility for inmates of any Correctional Institution under the jurisdiction of the Department and who is killed or sustains an injury resulting in a Permanent Disability in the line of duty.

"Dependent" - means a Child or Spouse of a Correctional Officer.

"Permanent Disability" - for the purposes of this Part, means a mental or physical condition that is reasonably certain to continue throughout the lifetime of the Correctional Officer, resulting in a total and complete disability from the date of the disability. A total and complete disability is caused by substantial and permanent physical injury, as established by the certified statement of a licensed physician.

"Recipient" - for the purposes of this Part, means an individual who receives assistance through this Program.

"Spouse" - means a husband or wife of the Correctional Officer at the time of the officer's death or Permanent Disability. For the purposes of this Program, persons involved in common law relationships and those who are allowed or remarried are not considered Spouses. If an individual is the legal spouse of the Correctional Officer at the time of death or disability, the individual is considered the spouse of the Correctional Officer at the time of death or disability.

Grants may be used at any postsecondary institution approved for participation in the Monetary Award Program provided the Applicant is enrolled on at least a half-time basis and is maintaining Satisfactory Academic Progress. (See 23 Ill. Adm. Code 735.64)

Grants may be used at any postsecondary institution approved for participation in the Monetary Award Program provided the Applicant is enrolled on at least a half-time basis and is maintaining Satisfactory Academic Progress. (See 23 Ill. Adm. Code 735.64)

Grants may be used at any postsecondary institution approved for participation in the Monetary Award Program provided the Applicant is enrolled on at least a half-time basis and is maintaining Satisfactory Academic Progress. (See 23 Ill. Adm. Code 735.64)

Grants may be used at any postsecondary institution approved for participation in the Monetary Award Program provided the Applicant is enrolled on at least a half-time basis and is maintaining Satisfactory Academic Progress. (See 23 Ill. Adm. Code 735.64)

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requested:

(Source: Recoded at 20 Ill. Reg. 10183, effective JUL 15 1996)

2721.30 Applicant Eligibility and Procedures

- All first-time Applicants shall complete an application which includes biographical information regarding the deceased or disabled Correctional Officer (e.g., name, where employed, position title, date of death or disability, etc.) and shall be accompanied by a certified death certificate or the certified statement of a licensed physician. Once eligibility has been established for one member of a family, it is established for all eligible dependents in the family. Thereafter, a simplified application will be required from each student on an individual basis.
- Applications must be filed prior to the end of the Academic Year for which grant assistance is being requested.
- If an application is incomplete, notice will be sent to the Applicant. The Applicant will then have an opportunity to furnish the missing information; however, the application will only be considered for processing as of the date it was completed and received in ISAC's Certified Office.
- A qualified Applicant shall:
 - be or have been a Dependent of a Correctional Officer;
 - be a United States Citizen or Eligible Noncitizen;
 - be enrolled on at least a half-time basis at an institution that is approved for participation in the Monetary Award Program (MAP) (see 23 Ill. Adm. Code 735.1) and
 - be making Satisfactory Academic Progress toward a degree or certificate.
- An Applicant need not be a Resident of Illinois at the time of enrollment and does not have to demonstrate financial need to receive this grant.
- Grants are applicable toward Tuition and Mandatory Fees.
 - A Recipient attending a public institution in Illinois shall receive a grant that shall not exceed the cost of tuition and Mandatory Fees at that institution.
 - A Recipient attending a private institution in Illinois may receive a grant that shall not exceed the cost of tuition and Mandatory Fees. However, that the grant shall not exceed the maximum grant payable to a student enrolled in the most expensive comparable program of study at a public institution.
- Notice of the grant award shall be sent to each Recipient. Applicants not receiving awards will also be notified.
- Benefits are limited to the full-time enrollment equivalent of eight semesters or twelve quarters of payment for undergraduate or graduate study.

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- 1) A student who receives a grant under this program and who is subsequently determined to be ineligible shall repay the institution the total amount of the funds received during the period in which s/he was ineligible.
- 2) Grant recipients receive payment through their institution of record.
- 3) If an applicant withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the applicant shall receive no refund. If the applicant withdraws after the adjustment period, the institution's tuition refund policy indicates the applicant had incurred such charges.
- 4) Recipients shall notify ISAC, in writing, within ten days of any changes affecting the dependent's name, address or enrollment status.

(Source: Added at 20 Ill. Reg. 10183, effective JUL 15 1996)

Section 2731.40 Program Procedures

- 1) ISAC will determine an applicant's eligibility from the biographical data supplied on the application and the supporting documentation.
- 2) Grant payment is subject to the limits of dollars appropriated for this program by the General Assembly.
- 3) ISAC will disburse grant funds in multiple installments, depending upon the number of terms financed by the grant; except that multiple disbursements will not be required in cases where the applicant's eligibility is not determined until the final term of the Academic Year for which the grant is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.
- 4) In the event that funds are insufficient to make awards to all eligible applicants, ISAC will make award determinations on the basis of the dates that the completed applications were received and the following:
- 1) First semester and first quarter awards will be paid, or prorated if funding is insufficient to pay all grants in full.
 - 2) If funds remain after first semester and first quarter awards are paid, second, third, and fourth quarter awards will be paid, or prorated if funds remaining are insufficient to pay all grants in full.
 - 3) If funds remain after second semester, second and third quarter awards are paid, summer term awards will be paid, or prorated if funding is insufficient to pay all grants in full.
 - 4) In the event that funds are not exhausted, awards for the difference between in-district/state and out-of-district/state tuition will be paid, or prorated if funds remaining are insufficient to pay all such grants in full.

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(Source: Added at 20 Ill. Reg. 10183, effective JUL 15 1996)

2731.50 Institutional Procedures

- 1) The institution shall certify the applicant's award amount within the time frame requested by ISAC, which shall be no sooner than 30 days unless there are extenuating circumstances. The institution shall be responsible to extend appropriated funds to the recipient of the award.
- 2) Institutional breakdown of assistance:
- 1) If the grant recipient receives other assistance targeted specifically for tuition and fees, the combined assistance shall not exceed the total tuition and fee expenses incurred by the student and if so, the institution shall reduce one of the awards accordingly.
 - 2) Notwithstanding the provisions of other ISAC-administered programs, the total amount of a student's Gift Assistance may not exceed the student's cost of attendance for that institution. Any excess Gift Assistance is considered an overaward and the institution is required to notify ISAC to reduce this grant and/or other Gift Assistance to prevent such an overaward.
 - 3) If the applicant is eligible for assistance under MAPs, the institution shall report the amount of the award to the Institutional Officer to receive the award and the financial aid package prior to receiving MAP Gift Assistance. The institution, however, may request a MAP grant to finance tuition and mandatory fee expenses not paid by this program.
 - 4) Institutional Processing of Payments:
 - 1) Upon receipt of grant funds, the institution shall make sure that the recipient continues to be enrolled on at least a half-time basis.
 - 2) Within 30 days of receiving payment, the institution shall credit the award toward the recipient's tuition and mandatory fee charges for the appropriate term.
 - 3) If the recipient withdraws from enrollment, the institution shall return the amount of the grant to ISAC for the semester(s) or quarter(s) not attended.
 - 4) Institutions are required to reconcile payments received through the institution's reconciliation to the amount paid by the institution that are determined in the reconciliation to be refunds payable to ISAC are to be processed and returned to ISAC no later than 50 days following the end of the academic term. Refunds can be caused by clerical errors, retroactive withdrawals, and other miscellaneous reasons. Should the payment arrive after the end of the term, the institution will have 60 days following receipt of payment to complete the reconciliation process and return any refunds to ISAC.
 - 5) Award payments made in the name of one recipient cannot be

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applied to another Recipient at the same Institution. A refund of the payment will be submitted to ISAC and the Recipient's account will be credited with the refund. If the Institution does not submit refunds as required, ISAC will deduct outstanding refunds from subsequent payments to the Institution.

6)

(Source: Added at 20 Ill. Reg. **10183**, effective **JUL 15 1996**)

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- 1) Heading of the Part: Police Officer/File Officer Survivor Grant Program
- 2) Code Citation: 23 Ill. Adm. Code 2732
- 3)

<u>Section numbers:</u>	<u>Adopted Action:</u>
2732.10	Amended
2732.20	Repealed, New
2732.30	New
2732.40	New
2732.50	New
- 4) Statutory Authority: Implementing Section 55 and authorized by Section 20(f) of the Higher Education Student Assistance Act [10 ILCS 947/55 and 20(f)].
- 5) Effective Date of Rule(s) Amendments: July 15, 1996
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this amendment contain incorporations by reference? No.
- 8) Date Filed in Agency's Principal Office: July 12, 1996
- 9) Notice(s) of Proposal Published in Illinois Register: March 22, 1996, 20 Ill. Reg. 4580
- 10) Has JCAR issued a Statement of Objections to these rule(s)? No.
- 11) Difference(s) between proposed and final version: Changes in this rulemaking were merely minor or technical in nature and were made in response to suggestions from JCAR staff.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the statement letter issued by JCAR? Yes.
- 13) Will these amendments replace an emergency rule currently in effect? No.
- 14) Are there any amendments pending on this Part? No.
- 15) Summary and Purpose of Amendments: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement state and federal statutory amendments, and to clarify issues that have arisen during the previous year. During the preceding year, ISAC proposed and promulgated changes to this Part. ISAC proposes the following substantive amendments: A number of changes have been incorporated to implement the statutory amendments contained in P.A. 89-0430 and to add new sections which parallel the codification scheme contained in other

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Parts of ISAC rules. It is important to note that many, if not most, of the provisions of Sections 2732.20 through 2732.50 are a continuation of existing policies. Amendments to previous rules are indicated by the word "amended" or "added" in the requirements that are being changed through this notice, explained below. The name of this Part has been updated from the Police Officer/Fire Officer Survivor Grant Program to the Grant Program for Dependents of Police or Fire Officers, to more accurately reflect the current purpose of this program and legislative intent. Section 2732.10 has been amended to reflect that eligibility is expanded to include family members of Police and Fire Officers who, in the line of duty, sustained injuries resulting in a permanent disability and not only those who lost their lives. Section 2732.20 now includes definitions, similar to other Parts of ISAC rules, many of which mirror the definitions used for the Dependents of Correctional Officers Grant Program. (See 23 Ill. Adm. Code 2731.) Section 2732.30 has been added and outlines the procedures to be followed as well as the eligibility criteria to be met if an applicant desires assistance through this program. Subsection (f) reflects the time of application for the program and the receipt of the award at the time of enrollment in order to receive program benefits. Subsection (g) amends previous language describing the amount of awards under this Part. A recipient attending a public institution in Illinois may receive full payment of tuition and mandatory fees, in accordance with the statute. In our efforts to maintain equity and still enable students to attend institutions of their choice, the award to a recipient at a private institution shall not exceed the grant that would be awarded to a student enrolled in a comparable program of study at a public university in Illinois. Subsection (i) limits the benefits under this part to the equivalent of eight semesters or twelve quarters of undergraduate or graduate study, in conformity with the Correctional Officers program and statutory amendments. Section 2732.40 has been added and includes the procedures that ISAC will follow in the administration of this program. Subsection (e) outlines how ISAC will distribute funds if the award is made necessary. Section 2732.50 has been added and if appropriation becomes necessary, the procedures should follow when packaging and disbursing student financial assistance through this program. Subsection (b) contains institutional guidelines that apply if and when a recipient's financial aid award exceeds the cost of attendance or if there is another grant or scholarship that is intended to defray the same educational costs covered by this grant. Finally, Subsection (c) delineates the payment processing requirements, which are similar to those followed by institutions in the administration of the Monetary Award Program (MAP). (See 23 Ill. Adm. Code 2735.)

16) Information and questions regarding these adopted rules amendments shall be directed to:

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Ms. Raquel G. Martinez
 Compliance Coordinator
 Illinois Student Assistance Commission
 1755 Lake Cook Road
 Deerfield, IL 60015
 (847) 948-8500

The full text of the adopted rules amendments begin on the next page.

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2732.30 Applicant Eligibility and Procedures

- a) All first-time Applicants shall complete an application which includes biographical information regarding the deceased or disabled Officer (e.g., name, were employed, position title, date of death or disability, etc.) and shall be accompanied by a certified death certificate or the certified statement of a licensed physician.
- b) Once eligibility has been established for one member of a family, it is established for all eligible dependents in the family. Thereafter, a simplified application will be required from each student on an annual basis.
- c) Applications must be filed prior to the end of the Academic Year for which grant assistance is being requested.
- d) If an application is incomplete, notice will be sent to the Applicant. The Applicant will then have an opportunity to furnish the missing information. If, however, the application will still be considered incomplete as of the date it was completed and received in ISAC's Deadfile Office, the Applicant shall be ineligible for consideration.
- e) A qualified Applicant shall:
 - 1) be or have been a resident of Illinois;
 - 2) be a United States Citizen or eligible Noncitizen;
 - 3) be enrolled on at least a half-time basis at an institution that is approved for participation in the Monetary Award Program (MAP) (see 23 Ill. Adm. Code 2735); and
 - 4) be making satisfactory Academic Progress toward a degree or certificate.

- f) An Applicant need not be a Resident of Illinois at the time of enrollment and does not have to demonstrate financial need to receive this grant.
- g) Grants are applicable toward Tuition and Mandatory Fees.

- h) Recipients attending public institutions in Illinois shall receive a grant that shall not exceed the cost of Tuition and Mandatory Fees at that Institution.

- i) A recipient attending a private institution in Illinois may receive a grant sufficient to pay the costs of Tuition and Mandatory Fees, provided that the grant does not exceed the maximum grant payable to a student enrolled in the most extensive comparable program of study at a public institution.

- j) Notice of the grant award will be sent to each Recipient. Applicants not receiving awards will also be notified.

- k) Benefits are limited to the full-time enrollment equivalent of graduate semesters or twelve quarters of payment for undergraduate or graduate study.

- l) A student who receives a grant under this program and who is subsequently determined to be ineligible shall reimburse the institution the total amount of the funds received during the period in which s/he

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- a) Grant recipients receive payment through their Institution of Record.
- b) If an Applicant withdraws from enrollment after the expiration of the Tuition refund/withdrawal adjustment period, the Applicant shall receive a grant for costs incurred up to the term award provided that the Institution's tuition refund policy indicates the Applicant had the Institution's tuition refund policy indicated on the application.
- c) Recipients shall notify ISAC in writing, within ten days of any changes affecting the dependent's name, address or enrollment status.

(Source: Added at 20 Ill. Reg. **10191** effective **JUL 15 1986**)

Section 2732.40 Program Procedures

- a) ISAC will determine an Applicant's eligibility from the biographical data supplied on the application and the supporting documentation.
- b) Grant payment is subject to the limits of dollars appropriated for this Program by the General Assembly.
- c) ISAC pays grant funds directly to the Institution of Record in the form of a check.
- d) ISAC will disburse grant funds in multiple installments, depending upon the number of terms financed by the grant, except that multiple disbursements will not be required in cases where the Applicant's eligibility is not determined until the final Term of the Academic Year for which the grant is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.
- e) In the event that funds are insufficient to make awards to all eligible Applicants, ISAC will make award determinations on the basis of the dates that the completed applications were received and the following:
 - 1) First semester and first quarter awards will be paid, or prorated if funding is insufficient to pay all grants in full.
 - 2) If funds remain after first semester and first quarter awards are paid, second semester and second quarter awards will be paid, or prorated if funds remaining are insufficient to pay all grants to full.
 - 3) If funds remain after second semester/second and third quarter awards are paid, summer Term awards will be paid, or prorated if funding is insufficient to pay all grants in full.
 - 4) In the event that funds are not exhausted, awards for the difference between in-district/state and out-of-district/state Tuition will be paid, or prorated if funds remaining are insufficient to pay all such grants in full.

(Source: Added at 20 Ill. Reg. **10191** effective **JUL 15 1986**)

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2739-50 Institutional Procedures

- a) The Institution shall certify the Applicant's award amount within the time frame requested by ISAC, which shall be no sooner than 30 days unless a more rapid response is necessary to expend appropriated funds under a grant issued by the State of Illinois.
- b) Institutional receipt of assistance:
 - 1) If the grant Recipient receives other assistance targeted specifically for tuition and fees, the combined assistance shall not exceed the total tuition and fee expenses incurred by the student and if so, the Institution shall reduce one of the awards accordingly.
 - 2) Notwithstanding the provisions of other ISAC-administered Programs, the total amount of a student's Gift Assistance may not exceed the student's cost of attendance at that Institution. Any excess Gift Assistance is considered an overaward and the Institution shall be responsible for the overaward. ISAC shall not fund any other Gift Assistance to prevent such an overaward.
 - 3) If the Applicant is eligible for assistance under VAP, the Applicant may not be eligible for a full VAP grant because the Police or Fire Officer Grant must be factored into the financial aid package prior to receiving VAP Gift Assistance. The Institution, however, may request a VAP grant to finance Tuition and Mandatory Fee expenses not paid by this Program.
- c) Institutional Processing of Payments:
 - 1) Upon receipt of grant funds, the Institution shall make sure that the Recipient continues to be enrolled on at least a half-time basis.
 - 2) Within 30 days after receiving payment, the Institution shall credit the award toward the Recipient's Tuition and Mandatory Fee charges for the appropriate Term.
 - 3) If the Recipient withdraws from enrollment, the Institution shall return the amount of the grant to ISAC for the semester(s) or quarter(s) not attended.
 - 4) Institutions are required to reconcile payments received through this Program. Any payments received by the Institution that are determined in the reconciliation to be refunds payable to ISAC are to be processed and returned to ISAC no later than 60 days following the end of the academic term. Refunds can be caused by financial errors, retroactive withdrawal, and other miscellaneous errors which are not the Institution's fault. Refunds received by the Institution will have 60 days following receipt of payment to complete the reconciliation process and return any refunds to ISAC.
 - 5) Award payments made in the name of one Recipient cannot be applied to another Recipient at the same Institution. A refund of the payment must be submitted to ISAC and a supplemental request must be made and processed for the proper Recipient.

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- 6) If the Institution does not submit refunds as required, ISAC will deduct outstanding refunds from subsequent payments to the Institution.

(Source: Added at 20 Ill. Reg. 10191, effective

Jul 15 1996)

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

1) Headings of the Part: State Toll Highway Rules2) Code Citation: 92 Ill. Adm. Code 25203) Section Numbers:

Amendment	Adopted Action:
2520.700	New
2520.701	New
2520.702	New
2520.703	New
2520.704	New
2520.705	New
2520.706	New
2520.707	New
2520.708	New
2520.709	New
2520.710	New
2520.711	New
2520.712	New
2520.713	New
2520.714	New

4) Statutory Authority: 605 ILCS 10 of the Toll Highway Act.5) Effective Date of Rulemaking: July 12, 19966) Does this rulemaking contain an automatic repeal date? No7) Does this rulemaking contain incorporations by reference? No8) Date Filed in Agency's Principal Office: June 25, 19969) Notice of Proposal Published in Illinois Register: March 22, 1996 at 20 Ill. Reg. 456910) Has ICAR issued a Statement of Objections to these rules? No11) Differences(s) between Proposal and final version: Nonsubstantive changes recommended by ICAR.12) Have all the changes agreed upon by the agency and ICAR been made as indicated in the agreement letter issued by ICAR? N/A13) Will this rulemaking replace an emergency rule currently in effect? No14) Are there any amendments pending on this Part? No15) Summary and Purpose of Rulemaking: Sections 2520.105-2520.714 are amended

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to promulgate the rules and regulations it shall utilize when conducting an administrative adjudication hearing for toll evasion as witnessed by the video surveillance cameras at the toll plazas.

16) Information and questions regarding these adopted amendments shall be directed to:

Name: George J. Soros
 Address: Chief Counsel
 The Illinois State Toll Highway Authority
 One Authority Drive
 Downers Grove, Illinois 60515
 Telephone: (708) 241-6800

The full text of the Adopted Amendment begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER IV: ILLINOIS TOLL HIGHWAY AUTHORITY
PART 2520
STATE TOLL HIGHWAY RULES

SUBPART A: AUTHORITY AND DEFINITIONS

Section	Authority
2520.195	Definitions
2520.110	
SUBPART B: GENERAL TRAFFIC RULES AND REGULATIONS	
Section	Illinois Vehicle Code
2520.200	Use of Tollway Prohibited
2520.201	Vehicles and Equipment Which May Be Excepted from Provisions of
2520.202	Section 2520.201
2520.203	Transportation of Hazardous Materials
2520.204	Special Usage Toll
2520.205	Loading or Unloading of Vehicles
2520.206	Full Stop at All Toll Plazas
2520.207	Entering and Leaving the Tollway
2520.208	"u" Turns, Etc.
2520.209	Backing Up or Vehicles
2520.210	Parking, Standing or Stopping
2520.211	Pushing or Towing of Vehicles
2520.212	Stopping or Halting Vehicles by the Authority
2520.213	Destruction of Authority Property
2520.214	Picnics
2520.215	Alcohol
2520.216	Alcohol
2520.217	Solicitation of Rides
2520.218	Loitering or Interfering with Traffic
2520.219	Approaching, Departing a Toll Plaza
2520.220	Compliance with Orders or Directions of State Troopers, Etc.
2520.221	Duty Upon Striking Fixtures, Structures or Other Property on Tollway
2520.222	Payment of Tolls
2520.223	Refused to Pay Tolls
2520.224	Traffic Control Devices
2520.225	Penalty for Violation
2520.226	

SUBPART C: TRESPASS

Section	Authority
2520.300	

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Restriction of Vehicles Using the Tollway
Exception on Nature of Use of Tollway
Persons and Vehicles Excepted from the Requirements of Subpart C
Penalties

SUBPART D: SPEED RESTRICTIONS

Section	Authority
2520.400	Maximum Speed Limits for Passenger Cars
2520.401	Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing
2520.402	Trailer, House Trailer and Campers
2520.403	Maximum Speed Limits for Service Areas, Parking Areas, Access Roads
2520.404	Road Hazards and Construction Zones
2520.405	Minimum Speed Limits
2520.406	Special Road Conditions

SUBPART E: CONDUCT PROVISIONS

Section	Provisions
2520.500	Violations
2520.501	Littering - Penalty
2520.502	Spurious or Counterfeit Tickets, Coupons or Tokens - Penalty
2520.503	Toll Collection Devices - Penalty for Breaking
2520.504	

SUBPART F: SEVERABILITY CLAUSE

Section	Partial Invalidity
2520.600	

SUBPART G: General Provisions

Section	Authority
2520.700	Related Statutes
2520.701	Notice to Respondent
2520.702	Notice of Response Number
2520.703	Public Hearing
2520.704	Penalties
2520.705	Discovery
2520.706	Administrative Adjudication
2520.707	Duties of Hearing Officer
2520.708	Hearings Format
2520.709	Default - Failure to Appear
2520.710	Enforcement of Final Order
2520.711	

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2520.712 Continuance

2520.713 Authority Rulemaking

2520.714 Severability Clause

AUTHORITY: Implementing and authorized by the Toll Highway Act [605 ILCS 101].

SOURCE: Filed January 3, 1973; effective February 1, 1973; codified at 8 Ill. Reg. 19884; Part repealed, new Part adopted at 17 Ill. Reg. 8539, effective May

27, 1993; amended at 20 Ill. Reg. **10200**, effective**JUL 12 1995**

Section 2520.110 Definitions

The following words and phrases when used in this Part shall have the meanings respectively ascribed to them in this Section:

"Authority" means the Illinois State Toll Highway Authority, an instrumentality and administrative agency of the State of Illinois, formerly known as the Illinois State Toll Highway Commission.

"Authorized Emergency Vehicles" means vehicles of fire departments and police departments, ambulances, emergency vehicles of public service companies, and other vehicles approved and authorized by the Authority when performing emergency business.

"Complaint" and "Notice" means the document(s) sent by the Authority to the respondent notifying the respondent of the alleged violations.

"Department of Transportation" means the Department of Transportation of the State of Illinois.

"Final Notice" means the notice sent by the Authority to the respondent that informs the respondent of a finding of liability of the listed charges that has been entered against the respondent.

"Hazardous Materials" means and includes explosives, radioactive materials, toxicologic agents, and other dangerous materials, as defined in Title 18, Sections 321-933, U.S. Code, including flammable liquids.

"Hearing" means a formal hearing conducted by the Authority of appointed hearing officers, to determine whether a violation of the Toll Highway Act and/or any and all rules and regulations promulgated thereto exists.

"Illinois Vehicle Code" means the Illinois Vehicle Code as set forth in ~~Ill. Rev. Stat. 1991 ch. 95-122, part 3-140, et seq.~~ § 625 ILCS 5/2.

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"Motor Driven Cycles" means every motorcycle or motor scooter with less than 150 cubic centimeter piston displacement, including motorized pedalcycles.

"Queues" means the portions of the Tollway Right-of-way occupied by restaurants, buildings and service stations, and parking and landscaped areas adjacent thereto.

"Person" means any individual, firm, corporation, cooperative, association, trust, partnership, joint venture or other legally recognized entity.

"Respondent" means any person charged with violating the Toll Highway Act.

"Right-of-Way" means the entire area of the Tollway within the fence lines (or the barrier wall(s), where no fence exists), including but not limited to the roadway, shoulders, structures, landscaped areas, maintenance areas, and other areas of the Tollway, but not including the control or jurisdiction of the Authority.

"Toll" means the fixed compensation to be paid to the Authority for the privilege of using the Tollway or any part thereof.

"Toll Highway Act" means ~~Ill. Rev. Stat. 1991 ch. 122, part 1-10, et seq.~~ § 605 ILCS 101-1, et seq. and any rules or regulations promulgated thereto.

"Toll Plaza" means any toll collection facility located upon the Tollway, including manned toll booths and/or automatic toll collection machines.

"Tollway" means any and all toll highways operated and maintained by the Authority pursuant to State and Federal laws as well as any and all intergovernmental agreements by and between the Authority and other governmental entities. ~~The Illinois Toll Highway, consisting of four expressways, including a ramp connection, which are described in general as:~~

~~1. State Tollway (I-294) which extends from the connection with the Danube and Kings Expressways (Interstate Routes 4 and 10) west of Bensley, Illinois, west-northwest and north around and through the Chicago Metropolitan Area to Interstate Route 347, terminating one mile south of the Illinois-Macomb line, and includes a spur leading to and from the north end of the Idema Expressway;~~

~~2. Northwest Tollway (I-90) which extends from the connection with the Kennedy Expressway (Interstate Routes 30 and 190) near the~~

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that the unpaid fine and/or penalty is a debt owing the Authority. The notice shall contain warning that failure to pay any fine or penalty due and owing within the time specified may result in the Authority's filing of a petition in the Circuit Court to have the unpaid fine or penalty rendered as a judgment as provided by this section. In addition, the Authority may exercise all other right of remedy allowable under the laws of the State of Illinois. Such sum and allowance under toll evasion shall be considered an individual violation.

(Source: Added at 20 Ill. Reg. 10200, effective JUL 12 1996.)

Section 2520.703 Toll Free Telephone Number

The Authority maintains a toll-free telephone number, available through 800 Directory Assistance, to receive, during its regular business hours, inquiries concerning alleged violations. The Authority also may be reached at its regular telephone number at 708/241-5300.

(Source: Added at 20 Ill. Reg. 10200, effective JUL 12 1996.)

Section 2520.704 Judicial Review

Judicial review of all final orders of the Authority shall be conducted in accordance with the Illinois Administrative Review Law, 735 ILCS 5/Art. III. All such actions for administrative review must be filed and heard in the Circuit Court of DuPage County.

(Source: Added at 20 Ill. Reg. 10200, effective JUL 12 1996.)

Section 2520.705 Penalties

Section 2520.223(g) of this Part authorizes the Illinois State Toll Highway Authority to:

- assess a \$20.00 fine against the registered owner of a vehicle who fails to pay the proper toll; and
- upon failure to pay the proper toll and fine to the Authority after notice of a final determination thereof and within 14 days after the notice, the registered owner shall also be subject to payment of an additional fine not to exceed \$50.00 for each and every violation pursuant to Section 2520.223(i) of this Part.

(Source: Added at 20 Ill. Reg. 10200, effective JUL 12 1996.)

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Section 2520.706 Discovery

Except by the written agreement of all parties, discovery is limited to the following:

- The respondent will be allowed to schedule an appointment to review any video surveillance evidence prior to the scheduled hearing. Such appointments shall be made during regular business hours of the Authority and shall take place at the Authority's corporate office located at One Authority Drive, Downers Grove, Illinois 60515. Written requests shall be submitted to the respondent's attorneys and filed with the Authority's secretary no later than 10 days prior to the call at the hearing. Nothing herein shall impose a duty upon the Authority to serve respondent with any documents that were previously sent to the registered owner of the cited vehicle as recorded with the Illinois Secretary of State by U.S. mail.

(Source: Added at 20 Ill. Reg. 10200, effective JUL 12 1996.)

Section 2520.707 Administrative Adjudication

- If the respondent fails to pay the assessed fines in the time specified and fails to file a written hearing request in the time specified in the notice, the respondent will be considered to have waived the right to a hearing. The respondent's attorneys shall be notified of the hearing. The hearing shall be scheduled to less than 30 days but not more than 15 days after the date of the notice. The Authority shall designate a hearing officer to conduct the hearing. The Authority may designate any person familiar with the law relating to the substance of the hearing as the hearing officer.

- Notice of Hearing - The Authority shall send written notice of the date and time of the hearing to all interested parties to the proceeding. The hearing shall be scheduled during regular business hours and shall be held at the main office of the Authority or at any other location designated by the Authority for such hearings. The Authority may, at its sole discretion, establish a process whereby respondents may contest the charges by mail rather than participating in a hearing.

- Contested Violations by Mail - If the notice allows for the contesting of the alleged violations by mail and the respondent elects to contest the alleged violations by mail, then respondent shall be bound by the determination(s) of the hearing officer as if the respondent had appeared in person for such hearing.

- Minutes of Hearing - No minutes of the hearing shall be required; however, all pleas must be in writing and all determinations of liability must be in writing and must set forth the basis of the finding in sufficient detail as to allow for meaningful review of the finding.

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- e) Conduct of Hearing - The hearing officer shall have full authority to conduct and control the procedure at the hearing. The hearing officer shall apply a preponderance of the evidence standard to all hearings conducted to determine respondent's liability for the violations alleged in the notice. The hearing officer shall not be bound by the strict rules of evidence of courts of law and equity.

(Source: added at 20 Ill. Reg. 10200, effective JUL 12 1996)

Section 2520-708 Duties of Hearing Officer

The powers and duties of the hearing officer at the hearing include but are not limited to:

- Presiding over the hearing;
- explaining the procedures of the hearing to the interested parties;
- administering all oaths and listening to testimony;
- ruled on the admissibility of evidence and admitting parties to present evidence;
- examining parties to examine and cross examine witnesses; and
- preparing a written report indicating his/her finding and the evidence and reasons supporting the finding.

(Source: added at 20 Ill. Reg. 10200, effective JUL 12 1996)

Section 2520-709 Hearings Format

- a) The Authority or the respondent may introduce into evidence, and the hearing officer may consider, all video surveillance evidence relating to the charged violations regardless of any foundation objections made by the opposing party.

- b) Any employee of the Authority may present the evidence on behalf of the Authority related to the alleged violation(s). However, in no event shall the hearing officer be allowed to present any evidence on behalf of the Authority. The hearing officer may, at his/her discretion, call each party to the hearing may make an opening statement, call, examine and cross examine witnesses, and seek to offer evidence. Evidence may be written or oral.

- d) Each party may make a closing statement at the conclusion of the hearing.

- e) The hearing officer may establish reasonable time limits for each presentation.

- f) No testimony shall be given or received at the hearing relating to discussions, offers, counter offers, objections or admissions at any settlement conferences that may have occurred.

- g) Simulations - Any written simulations of the parties may be introduced as evidence at the hearing. Such simulations shall be

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introduced at the beginning of the hearing and shall become part of the record of the hearing.

(Source: Added at 20 Ill. Reg. 10200, effective JUL 12 1996)

Section 2520-710 Default - Failure to Appear

- a) If a party fails to appear at the hearing and fails to timely and properly respond to the summons of the Authority, the Hearing Officer may enter a default against the party, and may also assess fines and penalties pursuant to Section 2520-705, Penalties.

- b) If a representative from the Authority fails to appear at the hearing to prosecute the complaint/violation, the Hearing Officer shall dismiss the complaint with prejudice.

(Source: Added at 20 Ill. Reg. 10200, effective JUL 12 1996)

Section 2520-711 Enforcement of Final Order

When the Authority determines that its order imposing fines remains unpaid, the Authority may exercise any of its remedies listed under Section 2520-705, Penalties. Those remedies will be cumulative and the exercise of any remedy does not preclude the use of any other remedy by the Authority.

(Source: Added at 20 Ill. Reg. 10200, effective JUL 12 1996)

Section 2520-712 Continuance

- a) The Authority shall have no right to a continuance unless the respondent requested and was granted a continuance at least 31 hours in advance of the scheduled hearing date.

- b) All requests for continuances shall be made by contacting the Authority at its toll-free number and requesting a new hearing date. The respondent shall be issued a new hearing date that sets the matter for hearing within 30 days after the previously scheduled hearing date. Unless good cause is shown, in writing, at least 7 days before the scheduled hearing, no party shall be granted more than one continuance.

(Source: Added at 20 Ill. Reg. 10200, effective JUL 12 1996)

Section 2520-713 Authority Rulemaking

These rules shall be liberally construed to accomplish the purposes of the Toll

ILLINOIS TOLL HIGHWAY AUTHORITY

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Highway Act and the laws of the State of Illinois. These rules and regulations shall be available to the general public at the main administrative office of the Authority during regular business hours. These rules are subject to modification at any time by the Authority's Board of Directors, pursuant to the Illinois Administrative Procedure Act (3 ILCS 100).

(Source: Added at 20 Ill. Reg. 10200, effective JUL 12 1996)

Section 2320.714 Severability Clause

The provisions of this Part are severable, and if any provision shall be held unconstitutional by a court of competent jurisdiction, the decision of such court as to the unconstitutionality of such provisions shall not affect or impair any of the remaining provisions.

(Source: Added at 20 Ill. Reg. 10200, effective JUL 12 1996)

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- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Numbers:
310.100 Amended
310.140 Amended
310.150 Amended
310.156 Repealed
310.480 Amended
310.500 Amended
310.530 Amended
310.540 Amended
310. Appendix C Amended
310. Appendix D Amended
310. Appendix G Amended
- 4) The specific statutory citation upon which the rule is based and authorized: 20 ILCS 415/8 and 8a.
- 5) The effective date of the rule: July 15, 1996
- 6) If this emergency rule is to expire before the end of the 150 days period, please specify the date: The emergency amendment will extend to the full 150 days.
- 7) Date filed in Agency's Principal Office: July 15, 1996
- 8) The reason for the emergency: This emergency filing is necessary to implement the Pay Plan changes for Fiscal Year 1997 affecting the Merit Compensation System Salary Schedule.
- 9) A Complete Description of the Subjects and Issues Involved: The Department of Central Management Services is filing an emergency amendment to implement the Fiscal Year 1997 Pay Plan changes that affect those employees subject to the Merit Compensation Plan. The following sections are being amended:
In Section 310.290, Out-of-State or Foreign Service Rate, the salary ranges for the Foreign Service and Merit Compensation out-of-state title are being revised to reflect the 3% increase for Merit Compensation titles.
In Section 310.440, Merit Compensation Salary Schedule, the reference to the "Merit Pay Zone" is being deleted.
In Section 310.450, Procedures for Determining Annual Merit Increases, within subsection (d), the reference to "Category 5" is being deleted

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since there will only be four categories in the Annual Merit Increase Guidechart (Section 310.540).

Section 310.456, Merit Zone, is being repealed since the "Merit Pay Zone Limit" in the Merit Compensation System Salary Schedule is being eliminated.

In Sections 310.480 and 310.500, the revisions made to these Sections are in reference to the elimination of the "Merit Pay Zone Limit" in the Merit Compensation System Salary Schedule.

In Sections 310.430, Implementation, the dates are being revised to reflect the new fiscal year.

In Section 310.540, Annual Merit Increase Guidechart, the new Merit Compensation guidechart is being revised to reflect four categories with the definitions being "Exceptional", "Accomplished", "Acceptable" and "Unacceptable" and to reflect changes in the allowable amounts of salary increases for the level of performance.

In Section 310. Appendices C and D, the Medical Administrator Rates and the Merit Compensation System Salary Schedule, the salary ranges for those employees subject to the Merit Compensation section of the Pay Plan are being increased by 3% for Fiscal Year 1997. The "Merit Pay Zone Limit" is being eliminated.

In Section 310. Appendix G, Broad-Band Pay Range Classes Salary Schedule, the salary ranges are being revised by 3% for Fiscal Year 1997.

- 10) Are there any proposed amendments pending to this Merit? Yes

Section Number	Proposed Action	Ill. Reg. Citation
310.230	Amended	20 Ill. Reg. 5405 (April 12, 1996)

- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect local government units.

- 12) The name, address and telephone number of the person to whom information and questions regarding this adopted rule shall be directed is:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
Telephone: (217) 782-5601

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The full text of the Emergency Rule is as follows:

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TITLE 90: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND

POSITION CLASSIFICATIONS

CHAPTER 1: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310

PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Increases in Pay
310.80	Decreases in Pay
310.90	Other Pay Provisions
310.100	Implementation of Pay Plan Changes for Fiscal Year 1996
310.110	Interpretation and Application of Pay Plan
310.120	Effective Date
310.130	Reinstitution of Within Grade Salary Increases
310.140	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)
310.150	

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.305	Regulating Rate
310.320	Negotiated Rate
310.330	Part-Time Daily or Hourly Special Services Rate
310.340	Hourly Rate
310.350	Member, Parent and Innate Rate
310.360	Trainee Rate
310.370	Legislated and Contracted Rate
310.380	Designated Rate
310.390	Out-of-State or Foreign Service Rate

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310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

Section

310.410	Jurisdiction
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases
310.460	Intermittent Merit Increase
310.470	Merit Some (Repealed)
310.480	Other Pay Increases
310.490	Adjustment
310.500	Decreases in Pay
310.510	Other Pay Provisions
310.520	Public Service Administrator Class Series
310.530	Definitions
310.540	Conversion of Base Salary to Pay Period Units
310.550	Implementation
310.560	Annual Merit Increase Guidechart for Fiscal Year 1996
310.570	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A

Negotiated Rates of Pay

TABLE A	HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE B	HR-916 (Department of Natural Resources, Teamsters)
TABLE C	HR-200 (Department of Labor - Chicago, Illinois - SEIU)
TABLE D	RC-009 (Firefighters, AFSCME)
TABLE E	RC-001 (Teamsters Local #726)
TABLE F	RC-020 (Teamsters Local #300)
TABLE G	RC-015 (Teamsters Local #15)
TABLE H	RC-006 (Correctional Employees, AFSCME)
TABLE I	RC-009 (Institutional Employees, AFSCME)
TABLE J	RC-014 (Clerical Employees, AFSCME)
TABLE K	RC-023 (Registered Nurses, INA)
TABLE L	RC-008 (Soletermakers)
TABLE M	RC-110 (Conservation Police Lodge)
TABLE N	RC-010 (Professional Legal Unit, AFSCME)
TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)

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TABLE O	RC-031 (West Inspectors, IPPE)
TABLE R	RC-042 (Residual Maintenance Workers, ASCSWE)
TABLE S	HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T	HR-010 (Teachers of Deaf, IFT)
TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V	CD-500 (Communications, Meet and Confer Employees)
TABLE W	RC-062 (Technical Employees, ASCSWE)
TABLE X	RC-063 (Professional Employees, ASCSWE)
TABLE Y	RC-063 (Educators, ASCSWE)
TABLE Z	RC-063 (Physicians, ASCSWE)
APPENDIX A	Schedules of Salary Grades - Monthly Rates of Pay for Fiscal Year 1997
APPENDIX B	Medical Administrator Rates for Fiscal Year 1997
APPENDIX C	Merit Compensation System Salary Schedule for Fiscal Year 1997
APPENDIX D	1996

EMERGENCY	Teaching Salary Schedule (Repealed)
APPENDIX E	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX F	Public Service Administrator Class Series Salary Schedule
EMERGENCY	

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [10 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1997; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1994, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1994; emergency amendment at 8 Ill. Reg. 3349, effective March 5, 1994, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1994, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1994, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1994, for a maximum of 150 days; amended at 8 Ill. Reg. 1239, effective June 25, 1994; emergency amendment at 9 Ill. Reg. 12616, effective July 1994, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15367, effective August 1, 1994; emergency amendment at 8 Ill. Reg. 15367, effective September 13, 1994; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1994, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1994; amended at 8 Ill. Reg. 22844, effective November 14, 1994; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1995, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1995; amended at 9 Ill. Reg. 1681, effective March 12, 1995; emergency amendment at 9 Ill. Reg. 1463, effective March 15, 1995, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 3231, effective May 31, 1995, for a maximum of 150 days; amended at 9 Ill. Reg. 3420, effective June 7, 1995; amended at 9 Ill. Reg. 1663, effective July 1, 1995; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1995, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 3375, effective January 22, 1996; amended

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at 10 Ill. Reg. 3230, effective January 24, 1996; emergency amendment at 10 Ill. Reg. 3904, effective May 13, 1996, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8928, effective May 13, 1996; emergency amendment at 10 Ill. Reg. 10290, effective June 30, 1996, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 13675, effective July 31, 1996; emergency amendment at 10 Ill. Reg. 14867, effective August 26, 1996; amended at 10 Ill. Reg. 15567, effective September 30, 1996; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1996, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 105712, effective October 28, 1996; emergency amendment at 10 Ill. Reg. 105712, effective October 28, 1996; emergency amendment at 10 Ill. Reg. 618, effective December 22, 1996; emergency amendment at 11 Ill. Reg. 3363, effective February 3, 1997; emergency amendment at 11 Ill. Reg. 4299, effective February 27, 1997; emergency amendment at 11 Ill. Reg. 4391, effective March 23, 1997; amended at 11 Ill. Reg. 5301, effective March 24, 1997; emergency amendment at 11 Ill. Reg. 9797, effective April 15, 1997, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 13675, effective July 29, 1997; amended at 11 Ill. Reg. 14984, effective August 27, 1997; emergency amendment at 11 Ill. Reg. 15273, effective September 1, 1997; emergency amendment at 11 Ill. Reg. 17919, effective October 19, 1997; emergency amendment at 11 Ill. Reg. 32811, effective November 19, 1997; emergency amendment at 11 Ill. Reg. 32814, effective November 19, 1997; emergency amendment at 11 Ill. Reg. 32814, effective November 19, 1997; emergency amendment at 11 Ill. Reg. 30778, effective December 1, 1997; emergency amendment at 12 Ill. Reg. 3811, effective January 27, 1998; emergency amendment at 12 Ill. Reg. 5459, effective March 3, 1998; amended at 12 Ill. Reg. 6073, effective March 21, 1998; emergency amendment at 12 Ill. Reg. 7783, effective April 14, 1998; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1998, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 8135, effective April 22, 1998; emergency amendment at 12 Ill. Reg. 9745, effective May 23, 1998; emergency amendment at 12 Ill. Reg. 11779, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12495, effective July 18, 1998, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 13065, effective July 27, 1998; corrected at 12 Ill. Reg. 13065, effective August 12, 1998; emergency amendment at 12 Ill. Reg. 13065, effective August 12, 1998; emergency amendment at 12 Ill. Reg. 20419, effective November 20, 1998; emergency amendment at 12 Ill. Reg. 20594, effective November 28, 1998; emergency amendment at 13 Ill. Reg. 8080, effective May 10, 1999; amended at 13 Ill. Reg. 8849, effective May 30, 1999; emergency amendment at 13 Ill. Reg. 10567, effective May 26, 1999; for a maximum of 150 days; emergency amendment on November 17, 1999; amended at 13 Ill. Reg. 11451, effective June 28, 1999; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1999, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; emergency amendment at 13 Ill. Reg. 13897, effective July 24, 1999; amended at 13 Ill. Reg. 16590, effective October 20, 1999; amended at 13 Ill. Reg. 19221, effective December 12, 1999; amended at 4 Ill. Reg. 615, effective June 1990; emergency amendment at 4 Ill. Reg. 137, effective January 1, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14

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1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 11, 1995; amended at 19 Ill. Reg. 7811, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 8396, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995; for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13379, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 108, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996; for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7134, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8487, effective June 20, 1996; amended at 20 Ill. Reg. 10213, effective June 26, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996; for a maximum of 150 days; amended at 20 Ill. Reg. 10213, effective July 15, 1996.

SUBPART B: SCHEDULE OF RATES

Section 310.290 Out-of-State or Foreign Service Rate

EMERGENCY

The rate of pay for employees occupying positions which require payment in the local currency of the host country, and the rate of pay for employees in the local currency of the home country, may be made to the salary of an employee stationed in a foreign country to compensate for a change in the currency exchange rate. The Director of the Department of Central Management Services will, before approving an adjustment, consider the need of the employing agency for the treatment of other similar situations, prevailing practices of other agencies, and the equity of the particular circumstances.

[illegible]

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Office Assistant--Foreign Service†	1719-2252	and-New-Jersey† (CA, NJ)	2241-3024
Office Associate (States-Other-Than-California and-New-Jersey) †(CA, NJ)	1039-2447 2039-2366		3001-0991 4410-1002
Public-Service-Administrator (States-Other-Than-California-and-New-Jersey) (CA, NJ)	2031-6009 3001-6093		
Office-Coordinator (States-Other-Than-California and-New-Jersey) †(CA, NJ)	1909-2553 2150-2086		
Revenue-Auditor-I (States-Other-Than-California and-New-Jersey) †(CA, NJ)	2601-3609 3041-4399		
Revenue-Auditor-II (States-Other-Than-California and-New-Jersey) †(CA, NJ)	3033-4264 3420-4020		
Revenue Auditor III (States-Other-Than-California and-New-Jersey) †(CA, NJ)	3605-4799 4309-5413		
Revenue-Auditor-Training (States-Other-Than-California and-New-Jersey) †(CA, NJ)	2160-2043 2461-3327		
Revenue-Tax-Specialist-I (States-Other-Than-California and-New-Jersey) †(CA, NJ)	2160-2043 2461-3327		
Revenue-Tax-Specialist-II (States-Other-Than-California and-New-Jersey) †(CA, NJ)	2331-3359 3601-3694		
Revenue-Tax-Specialist-Training (States-Other-Than-California and-New-Jersey) †(CA, NJ)	1909-2673		

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and-New-Jersey† (CA, NJ)	2241-3024	
Senior-Public-Service-Administrator (States-Other-Than-California-and-New-Jersey) †(CA, NJ)	3001-0991 4410-1002	
Title		Effective Fiscal Year 1997
Foreign Service Economic Development Executive I	3161-5645 3256-5811	
Foreign Service Economic Development Executive II	4040-7997 4170-7612	
Foreign Service Economic Development Representative	2606-4039 2761-1981	
Office Administrator IV (States Other Than California and New Jersey) (CA, NJ)	2131-3545 2175-3651 2307-4097 2458-4128	
Office Assistant (Foreign Service)	1719-2320	
Office Associate (States Other Than California and New Jersey) (CA, NJ)	1039-2521 2073-2950	
Public-Service-Administrator (States Other Than California and New Jersey) (CA, NJ)	2916-6189 4099 3397-6397 4709	
Office Coordinator (States Other Than California and New Jersey) (CA, NJ)	1909-2630 2159-2973	
Revenue Auditor I (States Other Than California and New Jersey) (CA, NJ)	2601-3717 2941-4102	
Revenue Auditor II (States Other Than California and New Jersey) (CA, NJ)	3033-4392 3428-1965	

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Revenue Auditor III (States Other Than California and New Jersey) (CA, NJ)	3695-4932 3709-5576
Revenue Auditor Trainee (States Other Than California and New Jersey) (CA, NJ)	2168-3031 2451-3427
Revenue Tax Specialist I (States Other Than California and New Jersey) (CA, NJ)	2169-3031 2451-3427
Revenue Tax Specialist II (States Other Than California and New Jersey) (CA, NJ)	2371-3357 2681-3395
Revenue Tax Specialist Trainee (States Other Than California and New Jersey) (CA, NJ)	1983-2753 2241-3112
Senior Public Service Administrator (States Other Than California and New Jersey) (CA, NJ)	4018-3168 #998 4542-10361 #8662

(Source: Emergency amendment at 20 Ill. Reg. **10213**, effective July 15, 1996, for a maximum of 150 days)

SUBPART C: MERIT COMPENSATION SYSTEM

Section 310.440 Merit Compensation Salary Schedule

EMERGENCY

- The Merit Compensation Salary Schedule attached at the end of the Pay Plan as Appendix D is hereby made a part of the Merit Compensation System.
- The Salary Schedule shall consist of a series of salary ranges, each composed of a minimum, midpoint and maximum rate and ~~merit-pay-some~~.

(Source: Emergency amendment at 20 Ill. Reg. **10213**, effective July 15, 1996, for a maximum of 150 days)

Section 310.450 Procedures for Determining Annual Merit Increases

EMERGENCY

- An annual merit increase is an in-range salary adjustment for demonstrated performance.
- Eligibility for an annual merit increase shall be determined by the following conditions:

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- Each employee will be eligible for a merit review after attaining the minimum grade for the position. The employee's supervisor and the supervisor shall prepare an Individual Development and Performance Evaluation form prior to the Performance Review Date, and discuss the results with the employee.
- Should the Individual Development and Performance review result in the employee not being eligible for an annual merit increase due to provisions of subsection 310.450(d), or should the employee's base rate be at the maximum rate of pay of the salary range assigned to the employee's position, the employee will not be eligible for an annual merit increase until 12 months of additional creditable service has been accrued.
- Based upon the results of the Individual Development and Performance Evaluation, the employee's immediate supervisor shall determine whether the employee's performance warrants or does not warrant an annual merit increase.
- The amount of an annual merit increase recommendation shall be determined by use of the Merit Increase Guidechart of Section 310.440 if the employee's Individual Development and Performance Evaluation has on the Performance Review Date been evaluated at a Category 1 or higher level. An employee whose Individual Development and Performance Evaluation has, on the Performance Review Date been evaluated at Category 4 or 5 shall not receive an increase in the present base salary. However, in no event is the resulting salary to be lower than the minimum or higher than the maximum rate of pay of the respective salary range assigned to the employee's position.
- The employee's immediate supervisor shall prepare a Performance Certification and Salary Increase Recommendation form, indicating and the amount the employee is eligible for an annual merit increase.
- The employee's immediate supervisor shall forward the Individual Development and Performance Evaluation records and Performance Certification and Salary Increase Recommendation records to the agency head or a designated authority for review and approval.
- Annual merit increases in pay shall become effective the first day of the month in which the employee's Performance Review Date occurs.

(Source: Emergency amendment at 20 Ill. Reg. **10213**, effective July 15, 1996, for a maximum of 150 days)

Section 310.456 Merit Zone (Repealed)

EMERGENCY

- The salary ranges shall be awarded, as set forth in Appendix B of the Pay Plan, to provide additional salary potential for employees near their normal maximum rates.
- Employees' salaries may be advanced into the Merit Zone only by an annual rating of "Superior" or by an Interim Merit Increase.

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(Source: Emergency repealer at 20 Ill. Reg. **10213**, effective July 15, 1996, for a maximum of 150 days)

Section 310.480 Decreases in Pay

EMERGENCY

Employees subject to this Part shall have their salaries reduced only as specified below. Any reduction in salary shall become effective on the first day of the month following approval of the reduction. However--if an employee's present salary is in the Next-Pay-Range of his or her present salary range--the salary need not be placed to the maximum of the lower salary range if in excess thereof; and shall be reduced to the Next-Pay-Range--if in the lower salary range--if in excess thereof.

- Demotion for Cause to a Lower Class -- If the employee's current base salary is within the lower salary range, it shall be retained without change, but shall be reduced to the maximum of the lower salary range if in excess thereof. An employee demoted during a probationary period following promotion will have the base salary reduced to the same salary that employee received before being promoted; and the same Class and service shall be retained.
- Position Reallocated to a Lower Class -- If the employee's current base salary is within the lower salary range, it shall be retained without change, but shall be reduced to the maximum of the lower salary range if in excess thereof. However, as provided in Section 8(a) of the Personnel Code, the pay of an employee whose position is reallocated because of duties and responsibilities after appointment to such position shall not be required to be lowered to a salary within the range for a period of one year.
- Voluntary Reduction to a Lower Class -- If the employee's current base salary is within the lower salary range, it shall be retained without change, but shall be reduced to the maximum of the lower salary range if in excess thereof. However, an employee who voluntarily requests a reduction in salary, observes a lower salary range, and the reduction results in the base salary reduced to the same salary in the lower salary range from which the employee was promoted and the previous creditable service date will be restored.
- Assignment of a Lower Salary Range to a Class -- If the employee's current base salary is within the lower salary range, it shall be retained without change, but shall be reduced to the maximum of the lower salary range if in excess thereof.
- Adjustment -- An employee may receive a downward adjustment in base salary for the purpose of correcting a previous error or oversight or when the best interest of the agency or the State of Illinois will be served. Adjustments must have the prior approval of the Director of Central Management Services. An adjustment shall be made for an employee's appointment, reassignment, or transfer to a salary adjustment by an employing agency, the Director of Central Management Services will consider whether the need for the adjustment is substantial, whether the action

is consistent with the treatment of other similar situations, and whether the action is equitable in view of the particular circumstances prompting the request.

(Source: Emergency amendment at 20 Ill. Reg. **10213**, effective July 15, 1996, for a maximum of 150 days)

Section 310.500 Definitions

EMERGENCY

The following are definitions of certain terms and are for purposes of clarification as they affect the Merit Compensation System only.

"Adjustment in Salary" -- A change in salary occasioned by previously committed error or oversight, or required in the best interest of the agency or the state as defined in Sections 310.470 and 310.480 of this Subpart.

"Base salary" -- The dollar amount of pay of an employee as determined under the provisions of the Merit Compensation System. Base salary does not include overtime pay or shift differential pay or deductions for time not worked.

"Creditable Service" -- All service in full or regularly scheduled part-time pay status beginning with the date of initial employment or the effective date of the last in-grade or promotional salary increase. Revaluations and reallocations will not affect the creditable service date. Adjustments (Section 310.470) "for the purpose of correcting a previous error or oversight" shall not result in a change in the creditable service date; however, adjustments in "the best interest of the agency" shall result in a new creditable service date unless the Director of the Department of Central Management Services determines such changes to be inequitable.

"Comparable Classes" -- Two or more classes that are in the same salary range.

"Demotion" -- The assignment for cause of an employee to a vacant position in a class in a lower salary range than the former class.

"Differential" -- The additional compensation added to the base salary of an employee resulting from conditions of employment imposed during the normal schedule of work.

"Entrance Salary" -- The initial base salary assigned to an employee upon entering State service.

Intermittent Merit Increase" -- An Intermittent Merit Increase is an

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Increase in monthly base salary, other than the annual merit increase awarded to a merit compensation employee based on performance.

"Maximum Rate of Pay" -- The highest rate of pay below the "Merit-Pay Base" for a given salary range.

"Merit-Pay Base" -- The highest rate of pay for a given salary range within the Merit Compensation Salary Schedule.

"Midpoint Salary" -- The rate of pay that divides the rate range of a salary range into two equal parts.

"Minimum Rate of Pay" -- The lowest rate of pay for a given salary range. Normally the minimum rate of pay represents the salary to be paid a qualified employee who is appointed to a position in a class assigned to a given salary range.

"Performance Review" -- The required review of an employee's on-the-job performance as measured by a specific set of criteria.

"Performance Review Date" -- The date on which the annual merit increase must be made effective. A performance review indicates that an employee has completed the review process and is recommended for promotion. The date of the completed review is the effective date of any recommendation to allow sufficient time for the records to be processed by the originating agency.

"Promotion" -- The appointment of an employee, with the approval of the agency and the Department of Central Management Services, to a vacant position in a class in a higher salary range than the former class.

"Reallocation" -- The change in the classification of a position resulting from significant changes in assigned duties and responsibilities.

"Reevaluation" -- The assignment of a different salary range to a class of positions based upon a change in relation to other classes or to the labor market.

"Salary Range" -- The dollar values encompassed by the minimum and maximum rates of pay of a salary range assigned to a class title.

"Transfer" -- The assignment of an employee to a vacant position in a class having the same salary range.

"Work Year" -- That period of time determined by the agency and filed with the Department of Central Management Services in accordance with

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80 Ill. Adm. Code 303.300 of the Department of Central Management Services.

(Source: Emergency amendment at 20 Ill. Reg. 10218, effective July 15, 1996, for a maximum of 150 days)

Section 310.510 Implementation

EMERGENCY

- The salary schedule for the Merit Compensation System for Fiscal Year 1997-1998 is as set forth in Appendix D of the Pay Plan.
- The Merit Increase Guideline for Fiscal Year 1997-1998 is as set forth in Section 310.540 of the Pay Plan.
- Any employee with a performance review date of July 1 or August 1 will have his or her salary increase determined by the use of the Merit Compensation Guideline for Fiscal Year 1996. The increase will be determined as follows:
 - For a salary range of \$15,000 to \$16,000, the increase will be 5%.
 - For a salary range of \$16,000 to \$17,000, the increase will be 4%.
 - For a salary range of \$17,000 to \$18,000, the increase will be 3%.
 - For a salary range of \$18,000 to \$19,000, the increase will be 2%.
 - For a salary range of \$19,000 to \$20,000, the increase will be 1%.
 - For a salary range of \$20,000 to \$21,000, the increase will be 0%.
 - For a salary range of \$21,000 to \$22,000, the increase will be 0%.
 - For a salary range of \$22,000 to \$23,000, the increase will be 0%.
 - For a salary range of \$23,000 to \$24,000, the increase will be 0%.
 - For a salary range of \$24,000 to \$25,000, the increase will be 0%.
 - For a salary range of \$25,000 to \$26,000, the increase will be 0%.
 - For a salary range of \$26,000 to \$27,000, the increase will be 0%.
 - For a salary range of \$27,000 to \$28,000, the increase will be 0%.
 - For a salary range of \$28,000 to \$29,000, the increase will be 0%.
 - For a salary range of \$29,000 to \$30,000, the increase will be 0%.
 - For a salary range of \$30,000 to \$31,000, the increase will be 0%.
 - For a salary range of \$31,000 to \$32,000, the increase will be 0%.
 - For a salary range of \$32,000 to \$33,000, the increase will be 0%.
 - For a salary range of \$33,000 to \$34,000, the increase will be 0%.
 - For a salary range of \$34,000 to \$35,000, the increase will be 0%.
 - For a salary range of \$35,000 to \$36,000, the increase will be 0%.
 - For a salary range of \$36,000 to \$37,000, the increase will be 0%.
 - For a salary range of \$37,000 to \$38,000, the increase will be 0%.
 - For a salary range of \$38,000 to \$39,000, the increase will be 0%.
 - For a salary range of \$39,000 to \$40,000, the increase will be 0%.
 - For a salary range of \$40,000 to \$41,000, the increase will be 0%.
 - For a salary range of \$41,000 to \$42,000, the increase will be 0%.
 - For a salary range of \$42,000 to \$43,000, the increase will be 0%.
 - For a salary range of \$43,000 to \$44,000, the increase will be 0%.
 - For a salary range of \$44,000 to \$45,000, the increase will be 0%.
 - For a salary range of \$45,000 to \$46,000, the increase will be 0%.
 - For a salary range of \$46,000 to \$47,000, the increase will be 0%.
 - For a salary range of \$47,000 to \$48,000, the increase will be 0%.
 - For a salary range of \$48,000 to \$49,000, the increase will be 0%.
 - For a salary range of \$49,000 to \$50,000, the increase will be 0%.
 - For a salary range of \$50,000 to \$51,000, the increase will be 0%.
 - For a salary range of \$51,000 to \$52,000, the increase will be 0%.
 - For a salary range of \$52,000 to \$53,000, the increase will be 0%.
 - For a salary range of \$53,000 to \$54,000, the increase will be 0%.
 - For a salary range of \$54,000 to \$55,000, the increase will be 0%.
 - For a salary range of \$55,000 to \$56,000, the increase will be 0%.
 - For a salary range of \$56,000 to \$57,000, the increase will be 0%.
 - For a salary range of \$57,000 to \$58,000, the increase will be 0%.
 - For a salary range of \$58,000 to \$59,000, the increase will be 0%.
 - For a salary range of \$59,000 to \$60,000, the increase will be 0%.
 - For a salary range of \$60,000 to \$61,000, the increase will be 0%.
 - For a salary range of \$61,000 to \$62,000, the increase will be 0%.
 - For a salary range of \$62,000 to \$63,000, the increase will be 0%.
 - For a salary range of \$63,000 to \$64,000, the increase will be 0%.
 - For a salary range of \$64,000 to \$65,000, the increase will be 0%.
 - For a salary range of \$65,000 to \$66,000, the increase will be 0%.
 - For a salary range of \$66,000 to \$67,000, the increase will be 0%.
 - For a salary range of \$67,000 to \$68,000, the increase will be 0%.
 - For a salary range of \$68,000 to \$69,000, the increase will be 0%.
 - For a salary range of \$69,000 to \$70,000, the increase will be 0%.
 - For a salary range of \$70,000 to \$71,000, the increase will be 0%.
 - For a salary range of \$71,000 to \$72,000, the increase will be 0%.
 - For a salary range of \$72,000 to \$73,000, the increase will be 0%.
 - For a salary range of \$73,000 to \$74,000, the increase will be 0%.
 - For a salary range of \$74,000 to \$75,000, the increase will be 0%.
 - For a salary range of \$75,000 to \$76,000, the increase will be 0%.
 - For a salary range of \$76,000 to \$77,000, the increase will be 0%.
 - For a salary range of \$77,000 to \$78,000, the increase will be 0%.
 - For a salary range of \$78,000 to \$79,000, the increase will be 0%.
 - For a salary range of \$79,000 to \$80,000, the increase will be 0%.
 - For a salary range of \$80,000 to \$81,000, the increase will be 0%.
 - For a salary range of \$81,000 to \$82,000, the increase will be 0%.
 - For a salary range of \$82,000 to \$83,000, the increase will be 0%.
 - For a salary range of \$83,000 to \$84,000, the increase will be 0%.
 - For a salary range of \$84,000 to \$85,000, the increase will be 0%.
 - For a salary range of \$85,000 to \$86,000, the increase will be 0%.
 - For a salary range of \$86,000 to \$87,000, the increase will be 0%.
 - For a salary range of \$87,000 to \$88,000, the increase will be 0%.
 - For a salary range of \$88,000 to \$89,000, the increase will be 0%.
 - For a salary range of \$89,000 to \$90,000, the increase will be 0%.
 - For a salary range of \$90,000 to \$91,000, the increase will be 0%.
 - For a salary range of \$91,000 to \$92,000, the increase will be 0%.
 - For a salary range of \$92,000 to \$93,000, the increase will be 0%.
 - For a salary range of \$93,000 to \$94,000, the increase will be 0%.
 - For a salary range of \$94,000 to \$95,000, the increase will be 0%.
 - For a salary range of \$95,000 to \$96,000, the increase will be 0%.
 - For a salary range of \$96,000 to \$97,000, the increase will be 0%.
 - For a salary range of \$97,000 to \$98,000, the increase will be 0%.
 - For a salary range of \$98,000 to \$99,000, the increase will be 0%.
 - For a salary range of \$99,000 to \$100,000, the increase will be 0%.

(Source: Emergency amendment at 20 Ill. Reg. 10218, effective July 15, 1996, for a maximum of 150 days)

Section 310.510 Annual Merit Increase Guideline for Fiscal Year 1997-1998

EMERGENCY

Category	Definition	Increase
Category 1	Exceptional	0% to 5% + \$125
Category 2	Accomplished	0% to 3% + \$125
Category 3	Acceptable	0% to 3%
Category 4	Unacceptable	\$0
Category 5	Superior	\$125 + \$4 to \$4
Category 6	Exceeds Expectations	\$125 + \$4 to \$4
Category 7	Meets Expectations	\$125
Category 8	Needs Improvement	\$0
Category 9	Unacceptable	\$0

(Source: Emergency amendment at 20 Ill. Reg. 10218, effective July

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

15, 1996, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 310 APPENDIX C Medical Administrator Rates for Fiscal Year 1997 1996

Title	Minimum Salary	Midpoint Salary	Maximum Salary
Medical Administrator I, Option C	6,845	9,327	9,809
Medical Administrator I, Option D	7,644	9,168	10,692
Medical Administrator II, Option C	7,396	8,906	10,416
Medical Administrator II, Option D	8,484	10,070	11,646
Medical Administrator III	8,795	10,522	12,249
Medical Administrator IV	8,938	10,665	12,392
Medical Administrator V	9,082	10,811	12,540
Medical-Administrator-Iv Option-C	6,646	8,984	9,522
Medical-Administrator-Iv Option-B	7,481	8,981	10,381
Medical-Administrator-Iv Option-E	7,781	8,647	10,713
Medical-Administrator-Iv Option-B	8,247	9,777	11,307
Medical-Administrator-III	8,539	10,215	11,891
Medical-Administrator-IV	8,618	10,354	11,738
Medical-Administrator-V	8,912	10,496	11,775

The rates of pay for physicians occupying or appointed to a position in the Medical Administrator classes shall be as listed in the above schedule. All provisions of Subpart C of the Pay Plan, Merit Compensation System will apply to the Medical Administrator positions.

(Source: Emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 310, APPENDIX D Merit Compensation System Salary Schedule for Fiscal Year 1997-1998

Salary Range	Minimum Salary	Midpoint Salary	Maximum Salary
MC 01	1,681	2,411	3,009
MC 02	1,691	2,533	3,175
MC 03	1,692	2,680	3,378
MC 04	2,072	2,806	3,540
MC 05	2,175	2,968	3,761
MC 06	2,285	3,112	3,953
MC 07	2,406	3,308	4,210
MC 08	2,538	3,502	4,492
MC 09	2,681	3,704	4,795
MC 10	2,831	3,944	5,052
MC 11	2,990	4,187	5,384
MC 12	3,175	4,467	5,759
MC 13	3,390	4,775	6,160
MC 14	3,626	5,126	6,626
MC 15	3,892	5,426	7,100
MC 16	4,166	5,905	7,644
MC 17	4,436	6,373	8,250
MC 18	4,846	6,853	8,850
MC 19	5,231	7,345	9,656

Salary Range	Minimum Salary	Midpoint Salary	Maximum Salary	Next-Pay Band-Point
ME-01	1,769	2,921	3,792	3,931
ME-02	1,936	2,986	3,936	3,983
ME-03	1,924	3,524	3,124	3,788
ME-04	2,012	3,642	3,722	3,436
ME-05	2,112	3,794	3,476	3,659
ME-06	2,218	3,936	3,654	3,837
ME-07	2,336	3,114	3,092	4,097
ME-08	2,462	3,283	4,144	4,752
ME-09	2,602	3,486	4,378	4,789
ME-10	2,749	3,722	4,675	4,789
ME-11	2,893	3,948	4,977	5,226
ME-12	3,095	4,284	5,325	5,758
ME-13	3,258	4,783	5,725	6,378
ME-14	3,439	5,132	6,165	6,883
ME-15	4,045	5,556	7,062	7,428
ME-16	4,765	5,992	7,629	8,118
ME-17	4,795	6,264	7,923	8,714
ME-18	4,795	6,264	7,923	8,714
ME-19	5,082	6,543	8,894	8,714

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

(Source: Emergency amendment at 20 Ill. Reg. **10213** effective July 15, 1996, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF EMERGENCY AMENDMENTS

Section 310. APPENDIX G Broad-Band Pay Range Classes Salary Schedule

Title	Minimum Salary	Maximum Salary
Human Resources Representative	1,691	3,540
Human Resources Specialist	2,175	4,210
Public Service Administrator	2,536	5,382
Senior Public Service Administrator	3,494	6,927
Level I		
Senior Public Service Administrator	4,292	7,772
Level II		
Human Resources Representative	3,636	7,436
Human Resources Specialist	3,712	4,967
Public Service Administrator	3,762	5,225
Senior Public Service Administrator	3,992	5,949
Level II		
Senior Public Service Administrator	4,167	7,749
Level III		

(Source: Emergency amendment at 20 Ill. Reg. **10213**, effective July 15, 1996, for a maximum of 150 days)

DEPARTMENT OF PUBLIC AID
NOTICE OF WITHDRAWAL OF AMENDMENTS

1) Heading of the Part: Aid to Families with Dependent Children

2) Code Citation: 89 Ill. Adm. Code 112

3) Section Numbers
112.71
Proposed Action:
Amendment

4) Date Notice of Proposed Amendments Published in the Illinois Register:
February 23, 1996
20 Ill. Reg. 3461

5) Reason for the Withdrawal:

The Department proposed these amendments regarding a change in exemption status for the AFDC JOBS program. Due to a change in State law and receipt of a federal waiver, parents under 18 can no longer be exempted from AFDC JOBS participation due to full-time school attendance, if they have not completed high school or obtained a GED. The amendments, as proposed, failed to include provisions concerning the Department's Family Accountability Project (89 Ill. Adm. Code 112.251 through 112.254 and 170.350). Specifically, than an individual shall be exempt from JOBS participation when the individual is the parent or other caretaker relative of a child under age three in the home. However, an individual cannot be exempted from JOBS participation if the individual is a child under age three, according to the Family Accountability Project. The amendments, as proposed, failed to include provisions concerning the Department's Family Accountability Project as described in 89 Ill. Adm. Code 112.251 through 112.254 and 170.350). For this reason, the amendments proposed at 20 Ill. Reg. 3461 are being withdrawn. The Department will propose amendments to replace this rulemaking.

DEPARTMENT OF CORRECTIONS

JANUARY OR JULY 1996 AGENDA

- a) Part(s) (Heading and Code Citation): Public Information, Rulemaking and Organization, 4 Ill. Adm. Code 850

1) Rulemaking:

- A) Description: Internal rules will be amended to reflect organization changes.

- B) Statutory Authority: 730 ILCS 5/3-2

- C) Scheduled meeting/hearing date: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions which will be indicated on the Notice.

- D) Date agency anticipates First Notice: On or before December 31, 1996

- E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Name: Donald N. Snyder, Jr., Deputy Director
Illinois Department of Corrections
Address: 1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277
Telephone: (217) 522-2666, extension 2082

- G) Related rulemakings and other pertinent information: None.

- b) Part(s) (Heading and Code Citation): Freedom of Information, 2 Ill. Adm. Code 851

1) Rulemaking:

- A) Description: This rule will be amended to provide updated procedures for processing Freedom of Information requests.

- B) Statutory Authority: 730 ILCS 5/3-2

- C) Scheduled meeting/hearing date: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions which will be indicated on the Notice.

- D) Date agency anticipates First Notice: On or before December

DEPARTMENT OF CORRECTIONS

JANUARY OR JULY 1996 AGENDA

31, 1996

- E) Affect on small businesses, small municipalities or not for profit corporations: None.

F) Agency contact person for information:

Name: Donald N. Snyder, Jr., Deputy Director
Illinois Department of Corrections
Address: 1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277
Telephone: (217) 522-2666, extension 2082

- G) Related rulemakings and other pertinent information: None
- c) Part(s) (Heading and Code Citation): School District #28, 20 Ill. Adm. Code —

1) Rulemaking:

- A) Description: This rule regulates academic and vocational education for persons committed to the Department. The rule will be amended, pending legislation, to include any monetary obligation authorized to be imposed on committed persons for such education.

- B) Statutory Authority: 730 ILCS 5/3-2-2

- C) Scheduled meeting/hearing date: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions which will be indicated on the Notice.

- D) Date agency anticipates First Notice: On or before December 31, 1996

- E) Affect on small businesses, small municipalities or not for profit corporations: None.

F) Agency contact person for information:

Name: Donald N. Snyder, Jr., Deputy Director
Illinois Department of Corrections
Address: 1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277
Telephone: (217) 522-2666, extension 2082

DEPARTMENT OF CORRECTIONS

DEPARTMENT OF CORRECTIONS

JANUARY OR JULY 1996 AGENDA

JANUARY OR JULY 1996 AGENDA

- G) Related rulemakings and other pertinent information: None.

C) Scheduled meeting/hearing date: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions which will be indicated on the Notice.

- d) Part(s) (Heading and Code Citation): Security, 20 Ill. Adm. Code 501

1) Rulemaking:

- A) Description: This rule provides security measures and will be updated to include changes in current law and court decisions.

- B) Statutory Authority: 730 ICS 5/3-2-2

C) Scheduled meeting/hearing date: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions which will be indicated on the Notice.

- D) Date agency anticipates First Notice: On or before December 31, 1996

- E) Affect on small businesses, small municipalities or not for profit corporations: None.

F) Agency contact person for information:

Name: Donald N. Snyder, Jr., Deputy Director
Illinois Department of Corrections
Address: 1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277
Telephone: (217) 522-2666, extension 2082

Name: Donald N. Snyder, Jr., Deputy Director
Illinois Department of Corrections
Address: 1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277
Telephone: (217) 522-2666, extension 2082

- G) Related rulemakings and other pertinent information: None.

- e) Part(s) (Heading and Code Citation): Discipline and Grievances, 20 Ill. Adm. Code 504

1) Rulemaking:

- A) Description: This rule provides disciplinary procedures and the grievance process. It will be amended to clarify existing policy, to add infractions and penalties, and update procedures in compliance with current law and recent court decisions.

- B) Statutory Authority: 730 ICS 5/3-2-2

- G) Related rulemakings and other pertinent information: None.

ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY

JULY 1996 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Operating Procedures for the Administration of Federal Funds, 20 Ill. Adm. Code 1520

1) Rulemaking:

- A) Description: The Authority expects to receive federal funds from the Department of Justice to fund criminal justice-related grant programs and plans to propose rulemaking necessary for the implementation of such grant programs.

- B) Statutory Authority: 20 ICS 1930/7

- C) Schedule meeting/hearing dates: No meetings or hearings have yet been scheduled.

- D) Date agency anticipates First Notice: The Authority anticipates submitting a notice of proposed rulemaking during the next 6 months of this year.

- E) Affect on small businesses, small municipalities or not for profit corporations: The rule may affect small businesses, small municipalities and not for profit corporations in that they may be potential recipients of grant funds.

- F) Agency contact person for information:

Kristi J. Kangas
120 S. Riverside Plaza, Suite 1016
Chicago, IL 60606
Telephone: 312-793-8550

- G) Related rulemakings and other pertinent information: None.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of July 9, 1996 through July 19, 1996 and have been scheduled for review by the Committee on July 23, 1996. On August 20, 1996 meeting, October 1, 1996 meeting and the published list may be added to the list. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
8/23/96	Department on Aging, Community Care Program (89 Ill Adm Code 210)	4/5/96 20 Ill Reg 5104	7/23/96
8/24/96	Department of Rehabilitation Services, Eligibility (89 Ill Adm Code §82)	4/5/96 20 Ill Reg 5296	8/20/96
8/25/96	Department of Insurance, Small Employer Carrier Actuarial Certification and Documentation Requirements (50 Ill Adm Code §100)	1/1/96 20 Ill Reg 3688	8/20/96

EXECUTIVE ORDERS

96-5

TRANSFER OF CERTAIN NON-STATUTORY POWERS TO THE
DEPARTMENT OF HUMAN SERVICES

Article V, Section 11 of the Constitution of the State of Illinois authorizes the Governor to reassign functions among or reorganize executive agencies which are directly responsible to him in order to simplify the organizational structure of the Executive Branch, to improve accountability, to increase accessibility, and to achieve efficiency and effectiveness in operation.

This Executive Order transfers certain non-statutory rights, powers and duties from the Department of Public Health and the Department of Children and Family Services to the Department of Human Services effective July 1, 1997. The transfer will further streamline the delivery of human services by combining fragmented programs into the new Department.

Therefore, pursuant to the power vested in me by Article V, Section 11 of the Constitution, I, Jim Edgar, hereby order the following:

1. Transfer of Non-Statutory Powers effective July 1, 1997.
 - A. From the Department of Public Health to the Department of Human Services

The following programs vested in the Department of Public Health or any office, division, council, committee, bureau, associated board, or employee thereof, and all rights, powers and duties incidental thereto, are hereby transferred from the Department of Public Health to the Department of Human Services:

1. Family Case Management
2. Healthy Start
3. Family Planning Services
4. School Based/Linked Health Center
5. Unmarried Parents
6. Help Me Grow Information & Referral Hotline
7. Subsequent Pregnancy Project
8. Early Intervention
9. Health Support Services
10. Commodity Supplemental Food
11. Project Success

- B. From the Department of Children and Family Services to the Department of Human Services

The following programs vested in the Department of Children and Family Services or any office, division, council, committee, bureau, associated board or employee thereof, and all rights, powers and duties incidental thereto, are hereby transferred from the Department of Children and Family Services to the Department of Human Services.

1. Parents Too Soon
2. Positive Youth Development
3. Tri-Agency Program

These changes are effective July 1, 1997.

2. Effect of Transfer
 - A. The rights, powers and duties transferred to or retained by the Department of Human Services by this Executive Order shall

be vested in and shall be exercised by the Department of Human Services. Each act done in the exercise of such rights, powers and duties shall have the same legal effect as if done by the former programs, divisions, committees, officers or employees thereof.

- B. Any person or corporation shall be subject to the same obligations and duties and any penalties, civil or criminal, arising therefrom, and shall have the same rights arising from the exercise of such rights, powers and duties as if such rights, powers and duties had been exercised by the former divisions, officers or employees thereof.

- C. Every officer of the Department of Human Services shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing law for the same offense by any officer whose powers or duties were transferred or retained under this Executive Order.

- D. Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person or corporation to the Department of Human Services, the same shall be made, given, furnished or served in the same manner to or upon the Department of Human Services.

- E. This Executive Order shall not affect any act done, ratified or canceled or any right occurring or established or any action or proceeding had or commenced in an administrative, civil or criminal cause before this Executive Order takes effect, but such actions or proceedings may be prosecuted and continued by the Department of Human Services.

- F. Any rules of the programs being reorganized by this Executive Order that are in force on the effective date of this Executive Order and that have been duly adopted by the Programs being reorganized shall be deemed to have been adopted by the Department of Human Services. This Executive Order shall not affect the legality of any such rules in the Illinois Administrative Code. Any proposed rules filed with the Secretary of State by the programs being reorganized by this Executive Order, that are pending in the rulemaking process on the effective date of this Executive Order, shall be deemed to have been filed by the Department of Human Services. As soon as may be practicable hereafter, the Department of Human Services shall revise and clarify the rules transferred to or retained by it under this Executive Order to reflect the reorganization of rights, powers and duties effected by this Order, using the procedures for reorganization of rules available under the Illinois Administrative Code, modeling for example the rules promulgated by the Department of Human Services.

The affected rules may be retained. The Department of Human Services may propose and adopt under the Illinois Administrative Procedure Act such other rules as may be necessary to consolidate and clarify the rules of the reorganized programs that will be administered by the Department of Human Services.

3. Severability

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

4. This Executive Order shall become effective immediately.
Issued by the Governor July 1996.
Filed with the Secretary of State July 3, 1996.

PROCLAMATIONS

96-296

KOREAN WAR VETERANS RECOGNITION DAY (REVISED)

Whereas, the Korean War began on June 25, 1950, when an armed force of the North Korean People's Army attacked the Republic of Korea; and
Whereas, there were 51,746 U.S. casualties and 101,284 wounded in action in that war; and
Whereas, Illinois sent 206,500 of her citizens to serve and fight in the war; and
Whereas, 1,741 Illinois service members paid the ultimate sacrifice to stop the spread of communism; and
Whereas, the soldiers who fought in Korea are known as the "Forgotten Warriors", for they have not been properly honored for their loyal service and commitment to defend the principles of democracy and freedom; and
Whereas, the Korean War Memorial Committee has worked valiantly for six years, raising the funds to build a monument to honor those Illinoisans who fought in Korea; and

Whereas, the hard work of the Committee has resulted in a new Korean War Memorial at Oak Ridge Cemetery in Springfield, which will be dedicated on June 15 and 16, 1996; and
Wherefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 16, 1996 as KOREAN WAR VETERANS RECOGNITION DAY in Illinois.

Issued by the Governor June 12, 1996.
Filed by the Secretary of State June 14, 1996.

96-125

SOBRIETY CHECKPOINT WEEK

Whereas, the incidence of alcohol and other drug impairment annually jeopardizes the lives and safety of the motoring public; and
Whereas, the U.S. Supreme Court ruled in support of the use of sobriety checkpoints as a measure to detect and deter incidents of impaired driving on

June 14, 1990; and
Whereas, sobriety checkpoints can serve to reduce the likelihood that drinking drivers will operate their vehicles, lessening the hazards to innocent travelers and pedestrians; and
Whereas, the citizens of the State of Illinois expect that the roads are free of impaired drivers;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 1-7, 1996, as SOBRIETY CHECKPOINT WEEK in Illinois and encourage all citizens to drive safe and sober, buckle-up and support the sobriety checkpoints in their communities.

Issued by the Governor June 26, 1996.
Filed by the Secretary of State July 12, 1996.

96-126

ADA M. THOMPSON DAY

Whereas, Ada M. Thompson has faithfully served the Helping Hand Committee from the O Fallon Christian Church; and

Whereas, this Committee has served many organizations, churches and people; and, she has been instrumental in a number of causes, including the Rev. Larry Rice Program, donations to bull terrier training and clothing the less fortunate, among many other deeds that have highlighted her life; and

Whereas, she is now retiring from her active service;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 7, 1996, as ADA M. THOMPSON DAY in Illinois in honor of her service and dedication and offer my best wishes for continued success.

Issued by the Governor June 27, 1996.

Filed by the Secretary of State July 12, 1996.

96-327

GENERAL ROBERT L. RUTHERFORD DAY

Whereas, General Robert L. Rutherford entered the Air Force in 1961 as a distinguished graduate of the Southwest Texas State University's Reserve Officer Training Program; and

Whereas, during his 35-year Air Force career, he has held nine command positions at squadron, wing, numbered air force and major command levels; and

Whereas, he is a command pilot with more than 4,000 flying hours in various airlift, tanker, fighter and trainer aircraft; and

Whereas, he has flown 161 combat missions in the F-4 fighter, including 101 missions over North Vietnam; and

Whereas, he is commander in chief of the United States Transportation Command and commander of the Air Force's Air Mobility Command at Scott Air Force Base;

Whereas, as a unified command commander in chief he is responsible to the secretary of defense for the nation's defense transportation requirements; and

Whereas, he exercises command over service transportation components from the Army, Navy and Air Force; and

Whereas, as commander of Air Mobility Command, he provides operationally trained, equipped and mission-ready air mobility forces to support United States requirements;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 15, 1996, as GENERAL ROBERT L. RUTHERFORD DAY in Illinois in honor of his retirement and in appreciation of his dedicated service to our state and country.

Issued by the Governor June 27, 1996.

Filed by the Secretary of State July 12, 1996.

96-328

LITHUANIAN FOLK DANCE FESTIVAL DAY

Whereas, the 10th Lithuanian Folk Dance Festival will be held July 6, 1996; and

Whereas, more than 15,000 people will join some 2,000 dancers representing Lithuanian folk dance groups from the United States, Canada, Lithuania, Brazil and Argentina;

Whereas, the Lithuanian Folk Dance Festival is jointly sponsored by the Lithuanian American and Lithuanian Canadian communities and celebrates their

rich Lithuanian cultural heritage; and

Whereas, the festivals began in Chicago in 1957 and have since continued every four years in various locations in the United States and Canada;

Whereas, the celebration of the State of Illinois, proclaim July 6, 1996, LITHUANIAN FOLK DANCE FESTIVAL DAY in Illinois.

Issued by the Governor June 27, 1996.

Filed by the Secretary of State July 12, 1996.

96-329

ROCHESTER TEEN HEROES DAY

Whereas, "heroic" is a term not generally used to describe teenagers, six Rochester teens are most worthy of that description for their actions in August of 1995; and

Whereas, Trevor Wolfer, George Indermark, Beau Friday, Kate Maple, Kristin Painter, and Lindsay Krisher did not hesitate to become involved when they happened across a body in the middle of the Rochester country road near midnight; and

Whereas, their courage, vigilance, resourcefulness, quick thinking, and calmness saved the life of a woman who had been thrown from a vehicle traveling at about 45 miles per hour; and

Whereas, among the actions taken by the teens to save the woman, who was in shock after suffering head injuries and a broken shoulder, were the administration of first aid, notification of ambulatory and police assistance, and policing of traffic; and

Whereas, because of their actions, the victim has since recovered and the person who allegedly committed the crime has been arrested; and

Whereas, the six teens were recently honored by the Sangamon County Sheriff's Department with the 1995 Citizens Award for taking the time to care;

and

Whereas, the Rochester group will be honored once again at the Rochester 4th of July parade and celebration;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 4, 1996, as ROCHESTER TEEN HEROES DAY in Illinois and commend Trevor, George, Beau, Kate, Kristin, and Lindsay for their bravery and recognize them as role models for teens throughout the area and state.

Issued by the Governor June 27, 1996.

Filed by the Secretary of State July 12, 1996.

96-330

TROUT VALLEY CONGRATULATED

Whereas, a vote was taken about whether or not to incorporate the Village of Trout Valley; and

Whereas, the McHenry County Clerk issued a report indicating that 270 ballots were cast in the election; and

Whereas, 211 voted "yes" to the question, 52 voted "no", and 7 did not vote on it; and

Whereas, a majority of the votes cast favored incorporation of the Village of Trout Valley;

Therefore, I, Jim Edgar, Governor of the State of Illinois, congratulate the residents of Trout Valley acting to get their village incorporated.

Issued by the Governor June 28, 1996.

Filed by the Secretary of State July 12, 1996.

96-331
FIREFIGHTERS APPRECIATION MONTH

"Not a gift of a cow, nor a gift of land, nor yet a gift of food, is so important as the gift of safety, which is declared to be the great gift among all gifts in this world."
Panchatantra (c. 5th century)

Whereas, firefighters are prepared to sacrifice their lives at all times in their professional service to their communities; and
Whereas, their immense contributions, both of personal risk and time devoted to public service, need to be acknowledged; and
Whereas, last year, firefighters in more than 100 Illinois communities raised and donated more than \$200,000 to the Muscular Dystrophy Association (MDA);

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 1996 as FIREFIGHTERS APPRECIATION MONTH in Illinois in conjunction with MDA's recognition of their efforts.

Issued by the Governor July 27, 1996.

Filed by the Secretary of State July 12, 1996.

96-332
BASS PRO SHOP DAY

Whereas, Bass Pro Shops is a proud leader in corporate commitment to the conservation of America's natural resources;

Whereas, Bass Pro Shops is committed to promoting the educational and family benefits of outdoor recreation and enjoyment of nature;

Whereas, Gunnee Mills Mall has been selected as the first Bass Pro Shops location in the Upper Midwest, bringing hundreds of new jobs into the State of Illinois;

Whereas, Bass Pro Shops and Gunnee Mills Mall together will enhance Illinois' position as the leading tourist destination in the Midwest;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 10, 1996 as BASS PRO SHOP DAY in Illinois, in recognition of the commitment to bringing outdoor recreation and enjoyment to the families of Illinois.

Issued by the Governor July 27, 1996.

Filed by the Secretary of State July 12, 1996.

96-333
COBDEN DAY

Whereas, the Cobden Connection is a sister-city affiliation between the towns of Cobden, Illinois, Cobden, Canada, Cobden, New Zealand, and Cobden, Australia; and

Whereas, all of these towns share the same namesake - Joseph Cobden, a railroad executive from England; and

Whereas, school children of Cobden, Illinois, sent letters to the

residents of the other towns of Cobden in order to learn more about the cities and people who reside in them; and

Whereas, for over a decade, one of the cities of Cobden has hosted residents of its sister cities; and

Whereas, more than 100 people participate annually in this exchange; and

Whereas, this year Cobden, Illinois will host 120 individuals from Canada, New Zealand, and Australia;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 6, 1996, as COBDEN DAY in Illinois.

Issued by the Governor July 2, 1996.

Filed by the Secretary of State July 12, 1996.

96-334
EASTERN SEAL DAY

Whereas, since 1913, the Illinois Eastern Seal Society has served children and adults with disabilities; and

Whereas, the Chicago South District Shell Dealers, in partnership with Eastern Seals, are holding their 3rd Annual Benefit to help continue quality services to more than 10,000 children with disabilities in the Chicagoand area; and

Whereas, to recognize the efforts of the District Shell Dealers in their community spirit and to celebrate the anniversary of Eastern Seals Services, individuals will be encouraged to participate in supporting Illinois' Eastern Seals;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 9, 1996, as EASTERN SEAL DAY in Illinois.

Issued by the Governor July 3, 1996.

Filed by the Secretary of State July 12, 1996.

96-335
END HOMELESSNESS MONTH

Whereas, people all over the State of Illinois experience homelessness; and

Whereas, Homeless On the Move for Equality, H.O.M.E., is a non-profit organization which involves both present and previous homeless people helping other homeless people; and

Whereas, H.O.M.E. educates the public about the causes and effects of homelessness and homelessness prevention;

Whereas, many homeless shelters are closed during the summer and H.O.M.E. is fighting to help homeless people by raising awareness about their situation;

Therefore, I, Jim Edgar, Governor of the State of Illinois proclaim July as END HOMELESSNESS MONTH in Illinois.

Issued by the Governor July 3, 1996.

Filed by the Secretary of State July 12, 1996.

96-336
FOMBY-SCOTT-SWAIN FAMILY REUNION WEEKEND

Whereas, in 1964, the Fomby-Scott-Swain families planned their first

family reunion in Birmingham, Alabama; and

Whereas, cousins who shared many childhood memories of growing up in Birmingham, Alabama, have reunited to celebrate the Bicentennial of the United States; and

Whereas, the ADA was signed into law six years ago this month; and

Whereas, the ADA was signed into law six years ago this month; and

Whereas, during the past six years more people with disabilities are now participants in our society, rather than spectators because of the ADA; and

Whereas, Illinois is a leader in promoting and implementing accessibility laws such as the ADA; and

Whereas, our citizens must continue to learn about accessibility laws and the needs of people with disabilities;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 25, 1996, as BARRIER AWARENESS DAY in Illinois.

Issued by the Governor July 8, 1996.

Filed by the Secretary of State July 12, 1996.

96-137

BARRIER AWARENESS DAY

Whereas, the Americans with Disabilities Act (ADA) has opened more doors for Illinois citizens with disabilities, who want full inclusion in employment, education and the community;

Whereas, the ADA was signed into law six years ago this month; and

Whereas, during the past six years more people with disabilities are now participants in our society, rather than spectators because of the ADA; and

Whereas, Illinois is a leader in promoting and implementing accessibility laws such as the ADA; and

Whereas, our citizens must continue to learn about accessibility laws and the needs of people with disabilities;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 25, 1996, as BARRIER AWARENESS DAY in Illinois.

Issued by the Governor July 8, 1996.

Filed by the Secretary of State July 12, 1996.

96-138

BERNARD NATH DAY

Whereas, Bernard Nath is a distinguished alumni of the University of Chicago, graduating Phi Beta Kappa in 1919 and receiving his law degree in 1921 as a member of the Order of the Coif; and

Whereas, Mr. Nath has built a distinguished career in the areas of corporate and real estate law; and

Whereas, Mr. Nath has seen Somsenschein, Nath and Rosenthal grow to an international law firm with over 150 lawyers in eight offices; and

Whereas, Mr. Nath has served as Director of a number of Chicago companies; and

Whereas, he has served as the first Chairman of the Highland Park Housing Committee which planned the construction of housing, primarily for the elderly; and

Whereas, Mr. Nath has been an active member of the Chicago Bar Association, Illinois Bar Association, Chicago Council of Lawyers and American Bar Association; and

Whereas, this year he celebrates 70 years of happiness in marriage with his wife, Ruth; and

Whereas, he is the cherished father of two, grandfather of six and great grandfather of nine; and

Whereas, Bernard Nath celebrates 75 years in the practice of law in the State of Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 18, 1996, as BERNARD NATH DAY in Illinois.

Issued by the Governor July 8, 1996.

Filed by the Secretary of State July 12, 1996.

96-140

FAMILY FEDERATION DAY

Whereas, the family structure is the bedrock of our culture in America and in our Great Land of Lincoln, State of Illinois; and

Whereas, cultural and technological developments in our society have helped generate tremendous reforms in the family and social environments; and

Whereas, solving today's problems will require reconciliation, compassion, service, and sacrifices among families and communities of all races, denominations and cultures working together to maintain and boost an emotionally healthy, human, and peaceful existence; and

Whereas, since its inception in October 1994, the Family Federation of Illinois, through its many programs, has provided a variety of other activities including meetings, lectures, seminars, international exchange, and other activities;

Whereas, the Family Federation of Illinois is holding a meeting in Chicago, Illinois on July 27th;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 27, 1996, as FAMILY FEDERATION DAY in Illinois.

Issued by the Governor July 8, 1996.

Filed by the Secretary of State July 12, 1996.

96-141

NATIONAL BATON TWIRLING WEEK

Whereas, the baton twirling movement has affected the lives of American girls and boys, and has become an important part of the American culture;

Whereas, baton twirling has been instrumental in building the confidence and character of these young people, has provided guidance and training so that they might become better qualified citizens; and

Whereas, the art of baton twirling is one of the largest beneficial youth movements for girls; and

Whereas, baton twirling plays an important part in children's hospitals as a unique and effective method of physical therapy; and

Whereas, baton twirlers lend so much color and inspiration to our community; and

Whereas, champion twirlers from all over the United States will gather at the University of Notre Dame, July 23-27, 1996, to conduct a colorful youth pageant called "America's Youth On Parade"; and

Whereas, baton twirling championships will be conducted as part of the Big Voice Dam Festival, August 1-3, 1996, in Easton, Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 21-27, 1996, as NATIONAL BATON TWIRLING WEEK in Illinois.

Issued by the Governor July 8, 1996.

Filed by the Secretary of State July 12, 1996.

96-142

SMILES FOR LITTLE CITY DAYS

Whereas, for 37 years, Little City Foundation has been a nationally recognized leader in providing programs and services for persons with developmental challenges; and

Whereas, on September 19-21, 1996, Little City Foundation will hold its annual "Smiles for Little City" tag days throughout the state; and

Whereas, this annual tradition is made possible through efforts of hundreds of Illinois residents who unselfishly volunteer their time and effort;

and

Whereas, they are supported by governmental, business, and labor leaders across the state and are appreciated by all citizens of Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 19-21, 1996, as **LITTLE CITY DAYS** in Illinois.

Issued by the Governor July 8, 1996.

Filed by the Secretary of State July 12, 1996.

96-343

SARCOIDOSIS AWARENESS DAY

Whereas, sarcoidosis is a disease that can attack any organ or tissue in the human body, commonly affecting the lungs; and

Whereas, 200 years have past and sarcoidosis remains a mystery to the medical community; and

Whereas, sarcoidosis is often misdiagnosed as multiple sclerosis, cancer, pneumonia, and arthritis; and

Whereas, an estimated 10,000 people are stricken with this disease in the United States; and

Whereas, sarcoidosis is increasing at an alarming rate;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 29, 1996, as **SARCOIDOSIS AWARENESS DAY** in Illinois.

Issued by the Governor July 9, 1996.

Filed by the Secretary of State July 12, 1996.

96-344

ETHNIC HERITAGE PARADE DAY

Whereas, the Ethnic Heritage Committee is holding its annual parade in downtown Chicago on July 20, 1996; and

Whereas, the Committee strives for ethnic harmony, growth and development in every aspect of human life; and to improve ethnic relationships, encourage neighborhood respect and works diligently to improve the human family; and

Whereas, it emphasizes improving our lives in this world, leaving a legacy of harmony for generations to come and with proper knowledge healing the scars of past ignorance; and

Whereas, this year's theme of "Ethnic Heritage" encourages each ethnic group to pay homage to those great leaders from their group who have worked to advance the cause of humanity;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 20, 1996, as **ETHNIC HERITAGE PARADE DAY** in Illinois.

Issued by the Governor July 10, 1996.

Filed by the Secretary of State July 12, 1996.

96-345

NATIONAL DENTAL ASSOCIATION WEEK

Whereas, the National Dental Association (NDA) was founded in 1913; and

Whereas, the NDA is the largest and oldest organization of minority oral health professionals in the world; and

Whereas, the NDA represents more than 6,000 African American dental health providers servicing some 30 million African American patients; and

Whereas, the National Dental Association's 33rd Annual Convention, "New Directions for the 21st Century," will be held on August 1, 1996, in St. Louis, Missouri;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 1-7, 1996, as **NATIONAL DENTAL ASSOCIATION WEEK** in Illinois.

Issued by the Governor July 10, 1996.

Filed by the Secretary of State July 12, 1996.

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